

JUDICIAL DECISION-MAKING IN CONTESTED CUSTODY CASES:
THE INFLUENCE OF SOCIOLOGICAL, PSYCHOLOGICAL,
AND LEGAL VARIABLES

By

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TABLE OF CONTENTS

	<u>Page</u>
ACKNOWLEDGMENTS	ii
ABSTRACT.	iv
INTRODUCTION.	1
Overview.	1
Types of Custody.	2
Historical Background	4
Problems with the Use of Rules in Determining Custody.	7
Joint Custody	10
Legal Guidelines for Custody Determinations	13
Judicial Decision-Making.	19
Development of Children Following Divorce	29
Parental Characteristics.	30
Parent-Child Relationships.	34
Specific Aims	40
Hypotheses.	42
METHODS.	44
Subjects.	44
Measures.	47
Procedure	55
Analyses.	56
Statistical Procedures	56
Variable Selection	60
RESULTS	62
Case Characteristics.	62
Frequency of Custody Awards and Recommendations	67
Prediction of Custody Awards.	69
Awards of Shared Versus Sole Custody	69
Awards of Maternal Versus Paternal Primary Physical Residence	79
Guardians' Decisions to Report Ratings.	85
DISCUSSION.	87
REFERENCES.	102
APPENDIX.	108
BIOGRAPHICAL SKETCH	115

Abstract of Dissertation Presented to the Graduate School
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In contested custody cases judges are responsible for determining the custody award that serves the best interests of the children involved. While state statutes provide judges with guidelines regarding these determinations, they are not worded very specifically. The judge's role is to interpret these guidelines and apply them to individual cases. Previous literature concerning judicial decision-making has suggested that judges often rely on a general preference for the mother as custodian rather than on individual case characteristics. This study examined the relationship between specific case factors and custody awards in order to describe the decision-making process in Florida. Information was collected on 60 contested initial disposition or disposition modification cases and was used to model judicial decision-making. Our results indicated that judges were generally following the legal statutes and

did not rely on a general preference for one parent. Additionally, although several case factors were used consistently by judges, some notably important information did not appear to be given much weight in their decision-making. In some cases substantiated reports of child abuse/neglect were overlooked. Additionally, the degree of parental conflict did not appear to be considered by judges, although this variable has been identified in the literature as a strong predictor of post-divorce child adjustment.

INTRODUCTION

Overview

Before 1900, determinations of responsibility for children after divorce were most often based on socially defined parental roles. In other words, the parent socially deemed responsible for raising children was given custody unless declared unfit by the courts. Specific criteria that influence child development were not considered in the initial adjudication of custody. The needs of children were expected to be met most effectively by the parent considered socially responsible for child rearing. However, as researchers in child development, divorce, and families demonstrated the importance of specific variables in normal child development, the legislature and courts have responded. Guidelines used by judges in adjudicating custody have become more detailed and the general doctrine has shifted from following social definitions of parental roles to a direct consideration of "the best interests of the child." Although criteria used to determine custody have become much more clearly delineated than ever before, judges may employ any additional information that they deem important to make a determination in a given case. The purpose of this research is to identify the criteria utilized by judges in contested custody cases. Previous research on judicial decision-making in custody cases have

studied judges' reports of what they do, but have not used other sources of data. The present paper will study the decision-making process from court records and ratings made by other court personnel (Guardian Ad Litem representatives). This methodology will provide additional estimations of the importance of specific criteria in custody decision-making than previously have been available. This approach also will make possible a comparison between what judges report is happening, what the Florida statutes dictate should be happening, what literature on post divorce child adjustment suggest is most important for these children, and what occurs in custody cases. A review of the types of custody available to most judges and a summary of how these custody arrangements have been applied historically will provide useful background information to the reader.

Types of Custody

Prior to 1957 legal statutes stipulated that only one type of custody arrangement was available to families: one parent held complete legal control in all areas of the children's lives, except for the court's determination of visitation rights and financial responsibilities. This arrangement was termed sole parental responsibility. The lack of other custody alternatives presumably followed from an assumption that divorced parents could not work well enough together to make joint decisions about their

children. However, since social-science research has documented the importance of a child's contact with both parents following divorce, the courts have developed alternative custody arrangements (Barnard & Jenson, 1984; Felner, 1987).

North Carolina was the first state to allow an alternative arrangement for custody in 1957, which was termed joint custody or shared parenting. Under joint custody parents are given approximately equal legal authority for making decisions about the children, though the court may determine which parent is expressly responsible for specific needs of the children such as school issues (Felner, 1987). In fact, usually one parent is given primary physical custody under a joint custody arrangement to maintain stability and continuity in the child's environment. However, some states have made another option available to the courts where the parents not only share the legal responsibility of the children, but also the residential care of them. Since this custody arrangement includes all of the characteristics of joint custody, states that allow this option make a distinction between joint legal and joint physical custody, with the latter referring to the arrangement in which the child moves between homes (Felner, 1987). A few states have also established legislation for a fourth type of custody arrangement, termed split custody. Under this arrangement, each parent is

awarded sole custody of one or more child following the divorce. This arrangement is relatively uncommon.

Historical Background

Prior to the eighteenth century, sole custody was the only option available, and it was awarded to the father universally. In fact, the father held complete legal control over the family. He owned all of the family goods, as well as the children, and completely determined what happened to children following a divorce. Furthermore, women held no rights over their husbands; they could neither question the father's ability as a parent nor exert any influence over him. The father held an unquestionable right to decide all facets of his child's life, as children were considered the property of the father (Derdeyn, 1976).

By the early eighteenth century, fathers became responsible for their children's welfare. Children were awarded rights as individuals for the first time in history. The English Parliament established this change in the social status of children in 1817 by instituting the doctrine of parens patriae which held that the Crown should defend the rights of those who had no other protection (Derdeyn, 1976). Children were considered part of this group, as they could not defend themselves against their parents. Custody decisions were said to be based on the "best interests for the child" rather than on the right of a father to dictate his children's lives.

In the early 1800s, the social status of women also increased with regard to their role and rights in the family. By the 1850s, a mother's role in the family, separate from that of serving her husband, began to be seen as important (Derdeyn, 1976). In fact, the mother's care was seen as necessary for the development of children through the early years of life (Folberg, 1984b). This change in social roles and status was reflected in the courts, as judges began to refer to the assumption that young children needed a mother's care to facilitate their growth and development (termed tender years presumption) when making custody determinations (Derdeyn, 1976). Under this presumption, custody awards were given to mothers more often than before, though still less often than to fathers.

While, initially the period in a child's life believed to require maternal care included only the first four years of life, the period was soon extended. By the 1920s, mothers were awarded custody almost as often as fathers, and by the mid 1900s, the tender years presumption had gained sufficient popularity that mothers received custody an estimated 90% of the time (Derdeyn, 1976). A few researchers have suggested that the courts' support of the mother as primary custodian of children following divorce reflected that her role was considered fundamental not only to the care of the children but also to the maintenance of stability and continuity in her children's interpersonal

relationships and their physical environment for children (Folberg, 1984b). Awarding primary custody to mothers in order to maintain continuity for the child is consistent with the fact that mothers were the primary care-givers of children within most families prior to their divorce. A preference for the mother as custodian may be, at least partially, a reflection of the importance of case specific variables and not entirely a simple presumption for the mother.

The common social view of each parent's role in the family and the consistency with which actual family role structures adhere to the social view, though shifting from supporting as custodian first the father and more recently the mother, continued almost universally to dictate custody decisions through the mid 1900s. The only exception to this policy occurred when the parent assumed to be most important to the child was considered unfit as a guardian. If a parent was guilty of adultery or desertion, for example, then custody would be given to the other spouse regardless of the strength of the social preference for that parent (Charnas, 1981; Derdeyn, 1976). In addition to moral infractions, mental illness also served as a reason for declaring a parent unfit for shared or sole parental responsibility (Horowitz & Davidson, 1984). The adjudication of custody appeared to be based upon rules which assumed the overriding importance of one parent for

the children's growth and development, often without even a consideration of the other's abilities (Mnookin, 1975).

Problems with the Use of Rules in Determining Custody

Using a general rule that considers one parent a more worthy custodian of children and allowing for only one custody arrangement (sole custody) presents some problems when a parent's desired post-divorce role structure does not adhere to the traditional social role definitions. For example, in traditional western post-divorce families, men are expected to earn the money to support two households, often leaving them with little time for their children; if they choose to spend time with their children at the expense of career advancement, they must respond to accusations of avoiding child-support payments (Victor & Winkler, 1976). Similarly, mothers are expected to fight for custody of their children; if a mother wants to begin or pursue a career that requires more than a few hours a day, she must stand up to challenges against her love for her children (Victor & Winkler, 1976). Consequently, the socially-defined parental roles and the use of sole custody as the only option can, at least partially, dictate parents' involvement with their children.

The primary reliance of the courts on sole custody alone and on a general rule to determine which parent receives custody also implies limits of factors that are considered important for custody determinations (Victor &

Winkler, 1976). Factors important in individual cases could be overlooked, if they do not support the traditional caretaker as sole custodian. It may be that each parent's relationship with the children, which could be different from traditional parental roles, could provide a unique contribution to the child's development. Likewise, the possibilities available to the family through the parents' combined resourcefulness or special circumstances might make a custody arrangement other than sole custody more beneficial for the children. Recent research has, in fact, consistently indicated the importance of many specific variables that describe the influence of intrafamilial relationships on the development and adjustment of children following divorce (e.g., Santrock & Warshak, 1979). Additionally, unique benefits have been shown to arise from the individual relationships of children with each parent following divorce, suggesting the importance of both parents' continued involvement with the children over a sole custody arrangement. These findings will be discussed in detail later.

Another problem arising from the use of traditional social role definitions to adjudicate custody and a reliance on sole custody as the only option for custody follows from the court process itself. Parents must engage in adversarial relationships with each other if one or both of them wishes to challenge the court's established view of the

family's post-divorce roles and the concomitant specifications of visitation and custody rights (Fischer, 1983; Victor & Winkler, 1976). With custody determinations being based primarily on a general rule, the only issues that can result in a shift from awarding custody to the one expected primary caretaker include moral and psychological infractions that render that parent unfit. The interaction between parents in the court room has become, in effect, a battle over father's and mother's moral and psychological fitness, rather than a direct defense of the best interests of the child (Goldstein, Freud, & Solnit, 1973; Pringle, 1975).

Within this context, answers to the court's question of what is the best interest of a child have been centered around individual parental roles rather than the consideration of each parent's unique contribution to the child's development or the possibilities available to the family through the parents' combined resourcefulness. Wallerstein and Kelly (1980) described the effects of using simple rules that follow role expectations in determining the primary caretaker for children. For their study, 60 cases where the mothers were awarded sole custody were followed for five years after divorce. One effect was that three-fifths of the women had a substantial decline in their standard of living. Additionally, their periodic income also became increasingly more variable. Because mothers

were forced to either stay at home with the children or resort to uninteresting jobs that demanded little time, they were unable to develop resources to stabilize the family economy.

These researchers also found that many older children living with their mothers rejected their fathers, accusing them of desertion when in fact the separation and post-divorce relationship was decided upon either equally by both parents or by the courts. Furthermore, fathers were allowed little share in decisions concerning the development of their children. These results suggest that limited custody options and decision-making based on traditional roles affect the parents' involvement with their children after divorce. They may even force the family into situations of conflict and frustration rather than helping them to resolve problems. A preference for the mother or father as a single custodian is not supported by the above findings.

Joint Custody

Shared parental responsibility, where both parents participate in their child's development, has been offered in response to these problems. Under this arrangement, there is greater flexibility with regards to individual parent's responsibility for and his or her availability to the children. Ideally, joint custody allows time for mothers to pursue their careers and fathers to develop

relationships with their children (D'Andrea, A., 1983; Derdeyn & Scott, 1984; Rothberg, 1983; Steinman, 1981; Victor & Winkler, 1976). Rosen (1979) and Frankel (1985) also found that when the child was allowed free access to both parents, divorce was perceived by children as less traumatic.

Third, shared parental responsibility offers the courts an option that does not force parents to do battle over their children, avoiding the usual problems of the legal system's adversarial process. For example, Ilfeld, Ilfeld, and Alexander (1982) and Frankel (1985) found that joint custody with open visitation arrangements resulted in less conflict within the family as assessed by the low percentage of cases involved in relitigation relative to sole custody cases. Frankel further found that when joint custody families did require modifications in their arrangements, they were effected with little conflict.

Fourth, as fathers have been taking on more of the daily responsibilities of child care within intact families than was previously common, concerns about the continuity and stability of the child's environment and interpersonal relationships no longer support simply an award for the mother as primary caretaker. In fact, Kline, Tschann, Johnston, & Wallerstein (1989) found that more joint custody fathers continued to have frequent regular contact with their children than noncustodial fathers. Fifth, Steinman

(1981) found that joint custody can affect the parent-child relationships and interparent conflict. Joint custody parents held much more respect for each other in terms of their parenting skills and applied a lot of effort towards working together in dealing with their parental concerns. These issues suggest that joint custody may offer a solution to many of the problems arising from using social role definitions for determining custody. However, Ilfeld et al. (1982) and Frankel (1985) stated that their results might have been due to a sample bias in that joint custody may have been awarded primarily to families with less overall conflict. This limitation, in fact, probably is present for a large number of the studies on post-divorce family relationships as samples have consisted of primarily middle-class families who are recruited through advertisements.

Despite its benefits, joint custody also requires several concessions on the part of the parents before it can be used effectively (Derdeyn & Scott, 1984). Parents must be willing to decide together what is best for their children and to live close enough to one another so that they can both maintain frequent contact with the children. Joint custody, then, is not the total solution to the problems of custody adjudication.

In many cases where joint custody has been awarded, parents may find it difficult to work out visitation rights and economic responsibilities together. Even more

critically, when parental conflict is high, each episode of visitation or decision-making may subject a child to repeated psychological trauma. In some cases, parents may resort to relitigation: at this time the courts re-evaluate whether joint custody is in the best interests of the child as well as addressing other specific issues.

Consequently, even under joint custody and with the establishment of the "best interests of the child" doctrine, the child's welfare depends upon sensitive judicial decision-making. Examination of the factors which may best support the post-divorce adjustment of children could have important implications for the courts' decision-making processes. The remainder of this paper compares current legal guidelines for custody determinations in terms of their congruence with empirical studies of children's post-divorce adjustment.

Legal Guidelines for Custody Determinations

States presently provide some general criteria in adjudicating custody disputes, but there are very few specifically defined legal guidelines to aid judges in decision-making, and even fewer that are known to influence directly the future development of these children. In Florida, the courts follow the "best interest of the child" doctrine, and shared parental responsibility is assumed unless determined detrimental to the child because of a parent's unfitness (Joint Legislative Management Committee,

1985). A parent can be considered unfit as a caretaker due to a past major felony conviction, spousal or child abuse, psychological instability, or a history of not caring for his or her children. If joint custody is rejected as the custody arrangement, then one parent is given full responsibility for raising the children after a divorce through an award of sole custody.

To date in Florida nine factors have been identified by the state as important in adjudicating custody disputes to determine both the type of custody, and who will be the primary residential caretaker if joint custody is chosen. In section three, chapter 61.13 of the Florida Statutes (Joint Legislative Management Committee, 1985) the guidelines are as follows: (a) the parent who is more likely to allow the child frequent and continuing contact with the nonresidential parent; (b) the love, affection, and other emotional ties existing between the parents and the child; (c) the capacity and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs; (d) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity; (e) the permanence, as a family unit, of the existing or proposed custodial home; (f) the moral fitness of the parents; (g) the mental and physical

health of the parents; (h) the home, school, and community record of the child; and (i) the reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

While these criteria offer some guidelines on what issues to consider, the standards for determining when a problem exists under one criterion are still quite vague. There remains the question of assessing when one of these criteria has been sufficiently satisfied to declare a parent unfit. Keenan (1985), for example, argues that when proof of abuse is not present, a parent alleging the abuse may be refused custody because of appearing uncooperative or emotionally unstable to the court. The criteria established by the state legislatures then do not provide clear guidance in determining parental fitness. Furthermore, it even may be argued that no support is offered regarding how to evaluate those issues.

Similarly, when both parents are considered equally fit, there remains the issue of judging which of the above criteria take precedence over others if primary physical residence is to be awarded. If one parent has predominantly cared for the children during the marriage while the other has provided for its economic needs, then a judge must determine if economic capacity to care for the child is more or less important for the best interests of the child then

maintaining the consistency in the care giving environment of the child (Trudrung-Taylor, 1986). Again, a judge is not given guidelines upon which an evaluation of state statute guidelines can be based. Additionally, it can appear to families that the judge is biased against one parental role no matter which criteria is given the deciding weight (Trudrung-Taylor, 1986).

A third issue relevant to custody determinations for which few guidelines are offered centers on how to evaluate when a previously awarded custody arrangement needs to be modified. A modification of child custody or visitation orders are generally justified only if there has been some "substantial change" of circumstances since the initial award of custody and only if the modification is in the best interests of the child (Price, 1983). Changes in custody or primary physical residence, for example, might be based on such issues as voluntary relinquishment of custody or on some event that proves a parent is unfit (e.g., substantiated physical abuse of the child). Visitation, on the other hand, might be modified if a previous arrangement has become unworkable or if one parent has moved (Price, 1983).

While these general standards provide some guidelines upon which to base a modification, what a judge considers sufficient to award a modification varies greatly from judge to judge. In fact, a judge may not even identify what

factor was considered important in his determination, but rather list all issues he considered in a given case without indicating how they were used. Thus, a fact considered important in one case might not be important at all in another case (Price, 1983). Consequently, the discretion of the judge remains paramount over any statement by state statutes or court precedence in the decision-making process.

In addition to the lack of specificity of these guidelines, there are some issues common to custody cases for which no guidelines are offered. Judges are left with only court precedence, which is often equivocal, in considering these issues. One such issue, defined as kidnapping, occurs when one parent takes and holds the children so that the other parent cannot gain access to them. While many people have described the traumatic effect of this event (e.g., Green, 1985), judges may not interpret kidnapping as sufficient grounds to declare a parent unfit. Even when it is illegal, a judge may not consider this issue when determining which parent will be awarded primary physical residence (Green, 1985).

A similar issue for which no guidelines have been offered, though its relevance to custody decision-making is unquestioned, is when a parent motions the court to allow him or her to move out of the state and take the children along (Quinn, 1986). Allowing a parent to move presents some problems for divorce families, as it effectively limits

the other parent's contact with the children. In Florida, it is generally accepted according to court precedence that the moving spouse must show that the move a) will provide "substantial changes" to the family issues upon which an initial custody arrangement has been based, and b) be in the best interest of the child before it will be allowed (Quinn, 1986). While the above standard provides some accepted guidelines for judges, the issue of what constitutes "substantial change" remains sufficiently vague. In fact, in very similar cases judges may decide to allow a move in one case but not in another. For these issues where no state statutes are available, judges are offered only general precedence that may not provide any guidelines upon which to base their determinations.

This lack of information and guidance forces judges to continue to depend upon their own views of the family's roles and structure to evaluate where the best interests of the child lies. Though some guidelines and court precedences are available, they do not provide sufficient support upon which to base decisions of how to use those guidelines. Furthermore, no information is provided on how to combine different components of custody arrangements, such as visitation, financial responsibilities, and child care to deal with the characteristics of families.

Empirical studies examining the factors associated with children's post-divorce adjustment could be used to aid in

the determination of custody and primary physical residence. Research could offer some more specific information on how the variables discussed previously relate to post-divorce child adjustment, and thus present some empirical support for what constitutes the best interest of the children. Research could also suggest when specific custody arrangements are clearly contraindicated, such as joint custody when the parents are extremely hostile towards one another. It would then be the task of the court to determine how these findings would apply to specific cases.

The recent advent of joint custody and other new types of custody as options for judges and the inclusion of some specific criteria in state statutes suggests that there already has been some progression in judicial decision-making away from a simple bias for one parent. These changes present a question to those who are searching for reform in custody decision-making of what judges currently use. Research on judicial decision-making is discussed in the next session. What criteria are used by judges currently will then be compared to research on post-divorce child adjustment as the next step in helping to evaluate where the best interest of the child lies.

Judicial Decision-Making

The new custody arrangements established by state legislatures have been argued as more supportive of the best interests of the child doctrine than sole custody awarded on

the basis of social role expectations. If judges have begun to use more case specific variables than was previously common, it can be expected that judges will rely less on a general preference for the mother as primary custodian. Pearson and Ring (1981) examined recent custody determinations in three Colorado counties and found that mothers received sole custody in 51.5% to 76.3% of the time, while fathers had only a 15.5% to 32.3% possibility in being awarded sole custody; split custody, where children are separated between parents, was awarded between 7.2% to 11.2% of the time; and joint and third party custody were the least popular awarded 1.0% to 6.1% of the time. Pearson and Ring concluded that the father only gained sole custody if the mother was proven to be unfit due to either mental problems, remarriage to a husband with a history of abusing children, or excessive drinking. Furthermore, custody determinations made use of the new custody arrangements in only a small number of cases. These results were also supported by Lowery (1981) and Phear, Beck, Hauser, Clark, and Whitney (1984).

Felner, Terre, Farber, Primavera, & Bishop (1985) also suggested that a preference for the mother continues to exist. Their study interviewed 43 judges; the results of their study revealed that 42% of the judges endorsed sole maternal custody as the arrangement of choice when both parents are considered approximately equally competent as

parents. Only 26% of the judges reported that they would consider joint custody as an option of choice in these cases, while none endorsed sole paternal custody as an option that they considered. These findings suggest that judges have continued to rely highly on the use of social views of the family, as represented by the tender years doctrine, to determine sole custody rather than examining specific case variables.

Felner et al. (1985) found that one reason judges continued to prefer maternal custody regarded their estimation of each parent's motivation for obtaining custody. Two primary motivators described by judges for fathers included revenge (endorsed by 26% of the judges) and use of the child as a bargaining tool in financial arrangements (endorsed by 23% of the judges). In addition, more fathers than mothers were seen as desiring sole custody because of spousal incompetence. These results indicate that fathers still were assumed to be less concerned for their children than are mothers, except when she is unfit as a custodian.

While the above studies appear to support the conclusion that judges continue to rely on a general preference for the mother as custodian, this may not be the whole truth. Pearson & Paul (1984) found that custody awards to mothers often were based upon the issue of the psychological parent. Goldstein et al. (1973) defined the

psychological parent as the one to whom the child has bonded and with whom the child has been most involved. Since mothers were the primary caretakers of the children for the families studied while the parents were married, the award of custody that best maintained consistency in the child's emotional environment would be to the mother. A preference for the mother as custodian may then be supported by reliance on a specific case variable, the parent who attended most to the needs of children prior to the divorce.

A more recent study (Racusin, R., Albertini, R., Wishik, H., Schnurr, P., & Mayberry, J., 1989) also found support for the conclusion that judges respond to specific case factors when determining custody of children. Joint versus sole custody was awarded significantly more often when fathers petitioned for it, when mothers and fathers had greater than 12 years of education, when fathers were over 25 years of age, and when no one in the family received welfare. Unfortunately, the influence of other factors such as interparent conflict, parenting skills, or the identity of the psychological parent was not assessed in this study. However, at least some case specific variables were considered by judges.

Another reason to question the finding of general preferences for one parent is that the above studies did not include in their samples families where both parents are fighting for the custody or primary physical residence of

their children. Pearson, Munson, and Thoennes (1984) report that as few as 10-15% of the custody cases brought before judges may actually involve disputes between the parents. The large number of maternal sole custody awards may then include in part a preference for this arrangement by the divorcing families themselves and not be solely a reflection of the views of judges.

Clearly, a decision to award a particular custody arrangement can be made for a variety of reasons. Consequently, simple frequency counts of custody or primary physical residence awards to each parent are insufficient to conclude what issue or issues influenced the court's decision-making. Furthermore, families often determine their own custody arrangements. Thus, the frequency of specific custody awards may evidence common family patterns as much as judicial preferences or values.

Judicial attitudes towards joint and paternal custody may also be misrepresented because judges have been considered as one homogeneous sample. In fact, there may be a group of judges who consider more case specific variables than other groups, or different clusters of variables. This difference would not be evident in judges' attitudes towards specific criteria if groups of judges are not compared. Pearson and Ring (1981) compared younger to older judges and found that while older judges continue to support a preference for maternal sole custody, younger judges

focussed more on parental motives and the relationships between the parents and children. Consequently, the preference for the mother described above may be an overestimation of judges' views in general.

However, Sorensen and Goldman (1989) found that there were no discriminable groups of judges based on importance ratings of specific criteria. While there was a large range of variation in the importance ratings of criteria, there did not appear to be distinct groups of judges who placed more weight on some criteria than other groups. While this finding does not indicate if young judges differ from older judges on the use of the tender years presumption, it does suggest that there is equal variability among young and old judges in their evaluation of specific criteria.

While the above studies show that some specific case variables are being considered by judges, they do not specifically identify the relative amount of weight placed on these and other criteria by judges. In an effort to accomplish this task, several researchers have surveyed judges requesting that they rate importance level for individual criteria. Though limited in number, these studies have suggested a continued reliance on the mother as primary care giver though some specific criteria have been identified as important to judges in their decision-making. In addition to the issue of the psychological parent, Pearson and Paul (1984) also found that children's wishes,

Guardian Ad Litem personnel recommendations, court ordered investigations, and statements made by the parents concerning their reason for seeking sole custody were used in determining custody arrangements. And, though some judges considered the input of mental health professionals, determination of sole custody was not necessarily based on following their recommendations.

Felner et al. (1985), Settle and Lowery (1982), Sorensen and Goldman (1989), and Lowery (1981) all found that specific factors were used in determining physical custody without a strong preference for the mother. Specific criteria in these studies that were most important to judges in their decision-making included the emotional stability of the parents, their ability to and concern for providing care for the children, the amount of time they had available for the children, the stability of the child's living arrangements, the moral character of the parents, and the parents affection for the children. Several other factors were also identified as important, though somewhat less important than the above issues. These factors included the financial resources of the family, interparent conflict, biological relationship of the parents and children, the length of time each parent has had custody, the parents' ability to provide contact with other relatives, school, and other children of about the same age, the child's wishes, and placing the child with the same sex

parent. Thus, judges do not appear to rely on a general rule such as the tender years presumption.

Another factor that may be considered important to judges is the effect of mental health experts' evaluations of parents on custody determinations. Lowery (1981) found that the level of importance rated by judges for their consideration of psychologists' and psychiatrists' evaluations of parents was high, averaging 7.56 on a scale of 1 to 11. However, this finding was not supported by Felner et al. (1985), as only 7% of the 43 judges sampled considered mental health recommendations as important in decision-making. Ash & Guyer (1984) also found that while judges may utilize psychological evaluations of parents and children, they considered other criteria more important than mental health experts' evaluations.

The studies listed above have consistently found that judges as a whole rate some criteria as having more importance in their determination of custody than other items. Thus, there is some general agreement among judges about the relative importance of different groups of criteria. It is important to note, however, that no criteria have been identified yet that either override all other criteria or are completely disregarded (Felner et al., 1985; Lowery, 1981; Settle and Lowery, 1982; Sorensen & Goldman, 1989). In fact, many items are rated as having similar degrees of importance, suggesting that judges

consider a large number of issues in their decision-making and are influenced by many case specific issues.

Although there were identifiable differences between items in the amount of importance given to them by judges as a whole, ratings also evidenced marked variability between judges in the weight given to individual variables. Judges did not make use of the criteria in a highly consistent fashion (Sorensen & Goldman, 1989). Thus, judges continue to differ in their evaluation of the relative importance of specific criteria and to rely on their own evaluations when weighing the many custody issues. These results suggest that though a number of specific criteria likely to be used by judges can be identified, how each of these items will impact the decision-making process can not be predetermined. The large variability in the importance ratings made by judges make it difficult to describe judicial decision-making in general.

The difficulty in describing generally judicial decision-making may follow from several reasons other than a simple difference between judges. One large reason is simply that decision-making differs from state to state and the studies that examine this process assess only one state at a time. How decision-making changes from state to state, and even the specific characteristics of decision-making within a state remain unclear. Racusin, Albertini, Wishik, Schnurr, and Mayberry (1989) did find that custody awards

differed among two states in accordance with the predominant legal presumption of each state. Additionally, since there were no studies on judicial decision-making in custody cases prior to the advent of joint custody, it is impossible to describe what changes have occurred since that time. Consequently, a ranking of their relative importance in decision-making in general may be impossible.

It is possible, however, to say that the courts and legislature have responded to issues raised by legal and other professionals regarding the importance of specific case factors. For example, joint custody has been offered as a custody arrangement that allows both parents to be involved in the growth and development of their children following a divorce. Similarly, some specific criteria have been defined in state statutes, and clearly judges are making use of these guidelines in their evaluation of custody, at least by their own report. These events support the conclusion of a continued concern about children and a willingness to respond to information regarding what constitutes the best interests of the child.

After identifying some of the criteria that judges use in determining what constitutes the best interest of the children following a divorce, it is important to recognize how consistent these criteria are with literature on post-divorce child adjustment. A comparison between these

two bodies of literature may help further delineate where the best interests of the child lie.

Development of Children Following Divorce

To date, research on the factors that influence the development of children after divorce has followed several paths, the most common of which is the comparison of divorced to intact families (Glover, 1989; Pfeffer, 1981; Pringle, 1975; Roman & Haddad, 1978; Rothberg, B., 1983; Shybunko, 1989; Wallerstein & Kelly, 1980; Warshak & Santrock, 1983). The specific issues examined by these studies have included the differences between parent-child interactions, parent-to-parent interactions, school achievement for the children, social adjustment, and demographic differences between the two groups. Other studies examining post-divorce child adjustment have also assessed the influences of external support structures, life events, relations between children and each of the parents, parental style, parenting skills, working versus nonworking parents, amount of conflict between the parents, and the amount of time parents spend with their children (Hess & Camara, 1979; Isaacs, 1988; Kline et al., 1989; Kurdek, 1988; Santrock & Warshak, 1979; Wallerstein & Kelly, 1980; Walsh & Stolberg, 1989). Research has also examined the differences between families in which mothers as compared to fathers are the post-divorce single parent (Adams, Milner, & Schrepf, 1984; Lamb, Pleck, & Levine, 1985).

It must be noted, however, that for most of the issues listed above the vast majority of families studied have included only a maternal sole custody arrangement, and interviews have been the primary method of data collection. Additionally, families studied are often middle class, and their custody arrangements have been constructed and agreed upon by both parents. These limitations in the research make the evaluation of paternal care and its effect on children difficult, and a clear statement of how the elements of family structure result in stable growth for children after divorce remains impossible. However, some more recent research has involved the use of standardized measures in the evaluation of child adjustment (Glover, 1989; Kline et al., 1989; Shybunko, 1989; Walsh & Stolberg, 1989). These studies have examined the effect of many family and situational variables on the emotional adjustment of children. While the more recent studies provide further support for the validity of the findings on post-divorce child adjustment, the following literature must be interpreted with some caution.

Parental Characteristics

Felner's review of the literature on children of divorced families (1987) and more recent research has supported the conclusion that parental variables are the greatest predictor of child development and general emotional adjustment following a divorce. In particular,

the most salient predictors of general child adjustment identified have included interparent conflict, the quality of the parent-child relationship, the degree of instability in the child's daily life, the emotional well being of the parents, the level of parenting skill, and the degree of economic stress present.

Of these factors, parental conflict emerged as a very strong predictor of child adjustment, even two years after parental divorce (Felner, 1987; Kline et al., 1989; Kurdek, 1988). However, hostility tends to decrease over time, at least for low conflict couples, and thus becomes a less effective predictor of child adjustment by five years post-divorce (Walsh & Stolberg, 1989). Part of the impact of interparental hostility on child adjustment may be effected through its negative influence on caretakers' parenting skills (Walsh & Stolberg, 1989). The relationship between parental hostility and child adjustment has also been found outside of divorced families. Stolberg, Camplair, Currier, & Wells (1987) found that marital hostility was highly related the number and severity of internalizing and externalizing behavior problems, lower self-esteem and lower prosocial behavior. Parental hostility appears to be a very salient factor in predicting child adjustment generally, further supporting the importance of examining this factor when dealing with divorcing families.

Another important predictor of child development includes the style of parenting within a family. Several researchers found that authoritative (as opposed to authoritarian) interaction which allows for verbal give and take, warmth, and nonpunitive and consistent rule enforcement were positively correlated with healthy peer interactions, decreased aggression, improved relations with parents, and improved attitudes towards school (Hess & Camara, 1979; Santrock & Warshak, 1979; Wallerstein & Kelly, 1980; and Warshak and Santrock, 1983). Similarly, parenting skills have also been found to be influential in post-divorce child adjustment (Walsh & Stolberg, 1989). These findings remained consistent regardless of which parent held sole custody.

Another consistent and important predictor of post-divorce child adjustment is maternal emotional adjustment. (The effect of paternal emotional adjustment has not been evaluated in part due to the infrequency of this arrangement.) Kurdek (1988) and Kline et al. (1989) both found a strong relationship between child behavior problems and maternal mental health at one- and two-year follow-ups respectively. Because parental mental health can impact many aspects of the parent-child relationship, its influence on child adjustment has probably been evident in a variety of other studies that examine parent-child relationships.

In any case, the potential impact of this variable on child adjustment is obvious and should thus be measured directly.

Social support or isolation has been studied extensively in the literature regarding family problems. In a review of the literature, Wood (1984) and Mitchell and Trickett (1980) reported that symptomatology and self-esteem are related to social support and social networks, and that interpersonal conflict can mediate whether experiences are supportive or stress inducing. These researchers suggest that social support and social networks may be important variables in mediating the impact of stressful experiences, of which parental divorce is clearly one. The positive effect of parental social support on children has been shown in research on divorced families as well. Kurdek (1988) found that at one year post-divorce follow-up, child adjustment as evidenced by a limited number of behavior problems, was predicted by a high degree of parental social support. This study offers further support for the importance of this variable to child adjustment. However, it has been given little importance by judges in determining custody arrangements (Lowery, 1981).

In contrast to the consistent similarities of effects resulting from maternal and paternal sole custody, Warshak and Santrock (1983) reported that the father's use of social support networks increased and that the mother's standard of living decreased after separation. This effect could result

from the different role expectations for mothers and fathers and not be indicative of the parenting skills of mothers and fathers (Warshak & Santrock, 1983). While the source of this finding remains unknown, it clearly suggests that there is a difference between maternal and paternal custody at least in how the arrangements affects the families' lives.

Parent-Child Relationships

The most important variable found in predicting a child's ability to interact warmly with peers and cope with stress is the post-divorce parent-child relationship (Felner, 1987; Hess & Camara, 1979; Santrock & Warshak, 1979; Shybunko, 1989). Some of studies evaluating this issue have used structured observations of parent and child behavior and independent raters. Santrock and Warshak (1979) reported that boys having good relationships with their fathers behaved more maturely and warmly, while those having good relations with their mothers expressed better self esteem. Girls showed a similar difference in their behavior, demonstrating more self esteem and social competence when relations with the mother were positive. Relationships with each parent provided unique benefits to child in social adjustment, with better adjustment being related to free access to the noncustodial parent.

Hess and Camara (1979) also found that the best predictor of positive social development and effective coping behaviors in children following a divorce was the

quality of parent-child interactions, even over parental disharmony. School work improved while aggressive behavior and stress decreased when parent-child relationships were largely devoid of conflict. Furthermore, children were more likely to exhibit effective coping behaviors when both parents maintained a positive relationship with them following the divorce. In fact, the quality of a child's relationship with each parent did not correlate significantly. In other words, Hess and Camara (1979) found that the child's involvement with each parent individually after divorce is differentially related to a child's social behavior.

More recent research using standardized measures have also evidenced the relationship between child adjustment and the relationship with the noncustodial parent. Shybunko (1989) found that in mother physical custody positive father-child relationships post-divorce predicted child social competence. Furthermore, Isaacs (1988) concluded that the regularity of visits between fathers and children buffered the child from interparent hostility. These findings were consistent for joint custody and sole custody, suggesting the greater influence of the child's relationship to the noncustodial parent over the legal custody arrangement.

Wallerstein and Kelly (1980) followed 60 families after divorce, in part to describe the differential importance of

mother-child versus father-child relationships. The mother-child relationship affected the level of stress in the family, while the father-child interaction was most important for adolescent development in both boys and girls. They also found that if the father remarried, his relationship with his children suffered. However, if the mother remarried, the only change in the family was a reduced level of stress for her.

The above studies suggest that post-divorce child adjustment is more dependent on the quality of each parent-child relationship, interparent conflict, and the stability of the child's environment regardless of the custody arrangement than maintaining a consistent contact with one particular parent. In fact, none of the above researchers have been able to find any consistent differences in children's behaviors not explained by these variables (Adams et al., 1984; Hess & Camara, 1979; Kline et al., 1989; Santrock & Warshak, 1979; Shybunko, 1989). More specifically, children's behavior were not found to be related to parental employment status (Santrock & Warshak, 1979), or the number of visits made by a noncustodial parent, when controlling for the duration of those visits (Hess & Camara, 1979).

A preference for the mother or father as a single custodian or the preferred primary residential custodian is thus not supported by the above findings. Instead, these

studies suggest that the specific case variables of parental conflict, parent-child relationships, and the style of parenting will be most predictive of the child's adjustment and hence most indicative of the best interests of the child following a divorce. Furthermore, each of these variables needs to be considered when attempting to predict child adjustment, as they are all interrelated and influential.

Because of the limitations in the research cited above, further research must be conducted to clarify which variables are most important in predicting children's post-divorce adjustment and how best to measure these variables. Unfortunately, most of the articles already published in this area have examined only small groups of low conflict families, have only sampled one socio-economic level, and have not matched samples for age of children or parents, length of separation, or number of siblings. Therefore, the effect of the variables studied on child behavior may be exaggerated due the lack of consideration for the above problems. Similarly, the proliferation of position papers, which only describe an individual's personal beliefs, add little to the fund of information (e.g., Mnookin, 1975). Without the consideration of each variable and its influence on behavior across a reasonably large sample, results from research cannot be generalized to other families.

There also remain several specific variables that have not been examined in the literature with regard to their influence on the normal development of children after divorce, though they have been identified by judges as important in the decision-making. The effect of remarriage, for example, has only been given casual attention in the literature on post-divorce child adjustment, though it has been assumed by some judges to increase the consistency of a child's environment and to fill the needs left by the noncustodial parent (Sager et al., 1980). Wallerstein and Kelly (1980) did state that the only benefit of remarriage was to reduce maternal stress and that several problems commonly occur in the families they studied that counteracted this benefit. For instance, they found that children feared the step-father would try to take the place of their biological father and that divorce occurred more often in the second versus first marriages. While this study suggests that remarriage has less impact on the children than the other variables discussed, only interview data and maternal sole custody families have been used to draw this conclusion. Further research is necessary to delimit the effect of remarriage on several different types of custody arrangements.

Another general issue that has also been considered by judges as somewhat important in their decision-making but has not been examined relevant to post-divorce child

adjustment is the moral influence of a parent upon children. The issue of a custodial parent's sexual preference (homo-versus heterosexual) is one example (Pagelow, 1980). Judges also have considered several other variables that relate to the moral influence of parents as well (Felner, 1987; Felner et al., 1985). Furthermore, variables such as criminal convictions, religious involvement, and the influence of mental health experts have not even been addressed in literature studying the factors that might influence a child's development. Consequently, these variables and their importance in predicting the post-divorce adjustment of children need further evaluation.

In summary, present research supports increasing the specificity of current legal guidelines over the simple reliance on one type of custody arrangement. Though some specific guidelines have been established and joint custody has become more common following the recognition of the importance of both parents to the child's adjustment, state statutes remain incomplete and globally stated. The statutes do not specify how to evaluate when one or both parents are unfit as custodians or when to adjudicate a different custody arrangement than joint custody. Consequently, judges are still left to depend upon their own perceptions of what variables affect children and upon court precedence in following the statutes. As legal precedents are further delineated, there will probably be a decreased

reliance on the use of simple social role definitions in determining who will care for children. As judges become more aware of social factors and modify their decision-making regarding custody determinations, post-divorce child adjustment can be further facilitated.

Further analysis of criteria defined by state statutes and social science research will be important in facilitating the shift to the use of specific criteria that have been identified as important in promoting healthy development for children after divorce. Further research also is required to clarify these present findings. Criteria based upon many specific variables that both describe the family's characteristics and predict the future development of the children could be developed that would help delineate what custody arrangements best support the child's interests. It is the authors' hope that a continued relationship between social scientists, legislatures, and court personnel will lead to improvements and further specification of the decision process involved in supporting the best interests of children.

Specific Aims

Previous research in the area of judicial decision-making with regards to where a child will reside following parental divorce has followed primarily one methodology, asking judges to rate the importance of specific criteria or asking lawyers what criteria they

believe judges use (e.g., Felner et al., 1985; Lowery, 1981; Pearson & Ring, 1981; Sorensen & Goldman, 1989). While these studies have offered some explanation of how the physical residence of post-divorce children is determined, they offer only general statements concerning the importance of specific issues. These studies have only examined ratings of the importance of criteria in general, rather than in terms of specific types of cases. Additionally, judges and lawyers may or may not be able to identify their decision-making process clearly, and there is always the potential for bias towards the socially desired response in self report studies.

The purpose of the present study was to examine judicial decision-making from the vantage point of predicting individual case outcomes from the information available to judges during court hearings. The importance of each specific variable relative to all other information collected was evaluated. The results of these analyses were then compared with previous literature on judicial decision-making regarding custody determinations, on child adjustment following parental divorce, and with the Florida legal statutes regarding custody determinations. Additional comparisons were made of case outcomes from rural versus urban and northern versus southern settings in order to evaluate the dissimilarity in how custody is awarded within different parts of the state. A secondary aim of this study

was to describe the characteristics of the families that get referred to the Guardian Ad Litem.

Since this study is the first attempt at combining research on judicial decision-making and post-divorce child adjustment through an examination of case records, a detailed analysis of the many specific issue relevant to these cases could not be undertaken at the present time. Rather, this project collected data covering a very large range of psychological and sociological issues generally and their interrelationships. The purpose of this project, then, was to identify which of these sociological and psychological issues are highly predictive of case outcomes. Future research can make use of the findings from this project to perform more detailed analyses on the specific variables identified as important.

Hypotheses

The literature on judicial decision-making and state statutes regarding custody determinations suggest that the present study should result in several findings. One hypothesis was that judges will continue to rely, at least in part, on a general preference for the mother as residential custodian over the father regardless of some specific case variables. It also was expected that this preference for the mother will be stronger for children under 12 years of age.

A second hypothesis was that there would be a few issues that have a strong influence on judges' decision-making in that these variables can determine if a parent will be considered unfit as a custodian of the child. It was expected that these issues would include substantiated drug use, child or spousal physical, emotional, or sexual abuse and neglect, emotional stability of the parents, having kidnapped the child previously, and parental handicaps. Similarly, it was expected that several variables would have little importance relative to the above issues. These variables were expected to include parental education, employment, income and age, willingness to allow visitation by the noncustodial parent, allegations only of child or spousal abuse or neglect, alcohol or drug abuse, child's wishes, placing the child with the same sex parent, and having more time available for the children.

METHODS

Subjects

The subjects for this study were 60 families referred to Florida's Guardian Ad Litem program (GAL) due to involvement in contested custody disputes. In each of these cases court intervention was necessitated because the parties were unable to reach an agreement concerning the custody of their child(ren). Data was not collected on any cases resolved through mediation only. Families were referred to the GAL by lawyers, judges, and family members. These cases were adjudicated between September, 1988 and October, 1990. A description of the GAL program is contained in the procedures section of this document.

Of the sixty cases, 44% involved marital dissolution and initial custody determinations, while 56% involved a modification of one or more components of a previous custody arrangements. Within the group of cases seeking a modification, 20% involved a visitation modification, 85% a residence modification, and 9% some other type of modification (e.g., child support payments). In 58% of the cases filing for a modification of a previous custody arrangement, one or both of the parents had remarried.

Approximately two-thirds of the cases were referred to circuits serving large metropolitan areas including Miami, Jacksonville, Tampa, Orlando, and Gainesville. The remainder of the cases were referred to a other circuits that serve a number of urban and rural counties, but only three cases involved families living in rural counties. The sample was distributed over the state approximately equally, with 61% from counties parallel to or north of Orlando and 39% from counties south of Orlando.

The families involved in these cases were predominantly Caucasian (85%), although five were Black, one was Hispanic, and three were of mixed race. Almost all of the families included a child under the age of 12 (92%). The average age of the children was 7.4, with a range from less than one year to 20 years. About half of the families had only one child (48%). There were approximately equal numbers of male and female children in the sample. Demographic information on the parents (see Table 1) indicates that the parents were generally in their 30s and had little more than a high school education. Mothers and step-mothers were frequently unemployed and seldom earned more than \$10,000 a year, while fathers and step-fathers often held skilled jobs earning in excess of \$20,000. Only 18% of the families had a parent who earned more than \$30,000 a year. Additionally, one or both parents has recently lost a job in 37% of the families.

TABLE 1
Demographic Characteristics of the Parents

<u>Variable</u>	<u>Parent</u>			
	<u>Mother</u>	<u>Father</u>	<u>Step-</u>	<u>Step-</u>
			<u>Mother</u>	<u>Father</u>
Percent Single Parents	85	75	--	--
Average Age	31.3	34.8	32.3	39.6
Average Years of Education	12.3	13.3	13.3	13.7
Average Yearly Income*	8.4	26.5	6.9	23.7
Percent Unemployed	29	3	29	0
Percent Unskilled Labor	51	45	36	33
Percent Skilled Labor	12	30	21	67
Percent Professionals	8	22	14	0

* In units of \$1000

Due to the large number of custody cases brought to the courts each year and the scarcity of the GAL workers, it is assumed that the cases referred to the GAL have a greater than average level of family problems, most notably familial conflict, when compared with the general population of divorce cases.

Measures

A questionnaire was developed which included a total of 61 items (see Appendix). These items were derived from previous research on judicial decision-making in custody cases, literature on post-divorce child adjustment, and the Florida statutes regarding custody determinations. Of these items, 8 required the GAL representative to rate one or more family members on a specific issue and to report their confidence in making those ratings. (All ratings were made on graphic scales and measured to generate a value from 1-99.) There were also 2 questions which required the guardian to make a judgement about which caretaker provided for the children's needs. In addition to the ratings, there were 10 items requiring a simple endorsement of the presence or absence of specific problems made in a given case. The remaining 41 questions required a simple report of demographic and case information. Additionally, a variable reflecting fitness of each parent was created with reference to legal criteria in the Florida Statutes (Joint Legislative Management Committee, 1985). These state that substantiated

child abuse/neglect or spouse abuse defines a parent as unfit.

Completion of this questionnaire required guardians to evaluate many different characteristics of the family based upon the data they collect during their interviews with family members. This process of forming impressions about families is also a central part of the Guardian Ad Litem's court appointed role in custody cases. In order to evaluate the stability both over time and across raters of the ratings recorded on the questionnaire used in this study, a pilot study was conducted.

Due to the large demand for the small number of guardians working on custody cases and the sensitivity of the material collected by the guardians, it was not possible to generate reliability data using actual cases. Consequently, a video tape of a mock interview between a guardian and a family was developed. There are four separate interviews included on this video tape, one with the child alone, one with each parent individually, and one with the all family members present. This video tape was shown twice to a group of 19 experienced guardians who have been assigned to at least one custody case previously, with a two week interval between viewings. The video tape was also shown to a group of 20 clinical psychologists licensed in the state of Florida.

During each of these viewings, subjects completed the section of the questionnaire that requires making evaluations of family members. Of the 8 questions that involve some rating on the family, 5 require separate ratings for each parent's relationship with the child(ren). All questions require separate ratings on the issue and the person's confidence in the ratings. Consequently, 26 rating variables were generated as part of this pilot study. The 2 questions which required the rater to make a judgement about which caretaker provided for the children's needs were also included in this pilot study.

Test-retest reliability was generated by calculating the Pearson Product Moment correlation between each of the guardian's ratings made after the first and second viewings. Of the 26 correlations, 22 were significant at the .05 probability level or better, with 15 of those significant at the .01 probability level or better. Of those 22, the mean r (19) was .66, with a range from .46-.92. These results suggest that there is moderate to good stability over time for these 22 ratings.

Unfortunately, the relationship between the ratings made during the first and second viewing on some of the questions did not generate significant test-retest correlations. These questions included the father's warm feelings for the children, how hostile the mother was to the interviewer, and the satisfaction with social support for

father. Ratings of the confidence guardians had in their ratings of the mother's warm feelings for the children also did not demonstrate significant test-retest correlations.

While a nonsignificant test-retest correlation suggests that subjects' impressions of these issues change over time, it does not provide any information either on the degree of difference between the ratings or on any possible trend within the ratings. In order to further examine how dissimilar guardians' ratings on these variables were across the two viewings, matched t-tests were calculated. None of these variables exhibited a difference between the first and second ratings, even at the .2 level of significance. Consequently, there does not appear to be a large difference between the ratings made across the two viewings. Similarly, there was no evidence on any question of a general trend for the rating made during the first viewing to be consistently higher or lower than the one made during the second viewing.

The test-retest stability for the two variables requiring the guardian to determine which parent primarily provided for the physical and emotional needs of the children was calculated using a chi-square analysis and percent agreement. Regarding physical needs, the same parent was identified by 82% of the guardians across viewings, indicating a significant reliability, $\chi^2 (1,17) = 5.24$, $p < .05$. Identification of the parent providing for the

child's emotional needs was even more stable, $\chi^2 (1,17) = 18.00$, $p < .001$, as 100% of the guardians identified the same parent after the two viewings.

There remain several possible reasons why ratings made during each of the viewings on these questions did not demonstrate significant relationships. One possible explanation is that there was insufficient variability in the distribution of ratings made on these questions to allow the Pearson Product Moment Correlation to calculate a relationship. This possibility was evaluated by examining the variance of ratings on these questions. None of the distributions of ratings on these questions appeared excessively limited, suggesting that variance was not an explanation of the poor test-retest correlations.

A second possible reason why a relationship between the ratings was not demonstrated is that guardians had insufficient information on these issues to generate a specific impression of the family and thus responded more randomly to these items. It was assumed that guardians would report low confidence in their ratings on a question when they had little information on that topic. Consequently, if low reliability was due to a lack of information, there would be a relationship between confidence ratings and the value of the test-retest reliability estimate. Due to the small sample size and to the fact that the reliability estimates were not normally

distributed, a Spearman Rank correlation was used to assess the relationship between these variables. Results indicate a significant positive relationship between these variables, $r_s(11) = .54, p < .01$.

A third possible reason why stability over time was not demonstrated for some ratings is that guardians' impressions may be changing as they consider the information on the family a second time. In fact, information salient to guardians during the first viewing of the tape may not be considered as important during the second viewing. Unfortunately, information on how guardians form their impressions of families is not available at this time. Thus further statements about why these particular ratings do not remain stable can not be made.

In general when the stability of a variable can not be demonstrated, that variable is dropped from further analyses. In this case, however, that course of action was not taken because regardless of the stability of guardian's impressions, these impressions are being reported to the court in custody cases. Consequently, the ratings need to be included in the analyses in order to evaluate their relative influence in the judges' decision-making process. Our findings of low test-retest reliability do indicate that further study is necessary in order to evaluate why guardians' ratings change over time.

In addition to evaluating the stability of guardians' ratings over time, we also assessed the consistency in ratings across raters. Viewers only rated one interview. Consequently, it was not possible to calculate interrater reliability of these questions using the standard procedure of comparing a few raters across a series of ratings. However, it was possible to examine the similarity of ratings made across evaluators on individual questions by examining the degree of variation within the distribution of ratings. The coefficient of variation ($CV = \frac{\text{Std}}{\text{M}} * 100$) is a unitless measure of this variation that compares the size of the mean to the size of the standard deviation. Although there is no statistical test for the significance of this value, values less than one hundred are generally considered to indicate low interrater variability and thus high consistency in the ratings. Values much greater than one hundred suggest high interrater variability or poor reliability between raters.

The values of the coefficient of variation for each question was calculated for each of the two groups of subjects, guardians and licensed psychologists, separately. Guardians' ratings generated following the first viewing were used. Ratings made by each group were found to have CV values considerably less than 100 for all questions, including ratings of confidence. In fact, the average CV value for the guardians' ratings across questions was 36.32,

with a range from 9.59-60.90. The average CV value for the psychologists' ratings across questions was 31.77, with a range from 9.97-69.98. These values indicate considerable similarity in the ratings made by guardians and psychologists on all questions. We interpreted this high degree of consistency to indicate that guardians as a group have similar definitions for the issues queried in the measure. Psychologists appear to similarly agree with one another upon the definition of these issues.

In addition to evaluating the level of variation between ratings made within these groups of subjects, we also compared the guardians' ratings to those made by psychologists on each question using t-tests. Results of these comparisons indicated significant differences between guardians' ratings and psychologists' ratings on only four questions. Guardians rated the parents as less conflicted ($\bar{M} = 65.32$) than psychologists ($\bar{M} = 77.95$), $t(37) = -2.20$, $p < .05$. However, guardians rated the father-child conflict as greater ($\bar{M} = 82.89$) than psychologists ($\bar{M} = 71.00$), $t(37) = 3.46$, $p < .01$. Guardians also rated each parent's satisfaction with their social supports lower ($\bar{M} = 37.10$ for mothers and 35.21 for fathers) than psychologists ($\bar{M} = 49.90$ for mothers and 49.70 for fathers), $t(37) = -2.33$, $p < .01$ and $t(37) = -2.04$, $p < .05$ respectively. Although the differences between these ratings were significant, the mean values do not indicate radical differences between

guardians' and psychologists' ratings. Consequently, guardians and psychologists appear to agree, at least in general, upon the definition of the issues rated during this study.

Another question relevant to the use of the ratings is what exactly are guardians using as concepts when evaluating the families on the issues queried. For example, to what are guardians referring when they report a high degree of conflict within a family? Additionally, what degree of conflict indicated on the rating form is consistent with a normal versus clinical cutoff point? These questions are beyond the scope of this research project. However, we did attempt have some families complete some previously validated measures so that we could compare guardians' ratings to them, but we were unable to generate sufficient data. Consequently, we will not be able to make statements from these ratings about what information, other than guardians' impressions, is being used by the court to form custody determinations. Consequently, this project will focus on the impact of guardians' impressions of families on custody determinations.

Procedures

Data were collected by GAL workers, who are generally referred to as guardians. The GAL program is a public agency operated under the direction of the Chief Judge of the circuit court. The role of the GAL is to serve as an

advocate for the child and to provide both information about the family and a recommendation regarding custody or dependency to the court. Seven judicial circuits have GAL programs serving in custody disputes; each of these participated in the data collection.

The questionnaire was completed by guardians assigned to each case after the court made its final determination. The assistance of a supervisor in this process was provided on occasion. GAL workers had access to all information available to the court on these cases, except parental criminal history.

The researchers were not provided with names of family members or other identifying information; cases were identified by a research number to protect confidentiality. Due to the archival nature of the data, the Institutional Review Board determined that provisions for receiving informed consent were unnecessary.

Analyses

Statistical Procedures

Much of the data collected for this study described each individual parent and step-parent in the family separately. For example, guardians' rated the amount of conflict between each parent and the children. Unfortunately, the sample size did not permit us to analyze the influence of step-parents relative to natural parents on judicial decision-making. However, we did not want to

simply drop the information on step-parents from our analyses. Consequently, data on the step-parent were combined with data on the natural parent to whom they were married. This was achieved in two ways. Ratings made by guardians were averaged. Reports of abuse or of a parent taking a child secretly from the other parent were considered present if they were made on either member of a natural parent/step-parent pair.

GAL workers provided us with a number of ratings on family relationship characteristics. In addition to rating family relationship information, guardians also rated their confidence in making those ratings. We hypothesized that guardians confidence would affect their ratings' influence on judicial decision-making. This hypothesis was tested by including confidence ratings as main effects and as interactions with the ratings in subsequent analyses. Although we obtained confidence ratings for each parent/step-parent pair, these ratings were highly related. Correlations of confidence scores between parental dyads averaged .80 and ranged from .67 to .93 (all $p \leq .0001$). In order to avoid multicollinearity among these confidence scores, they were pooled across parental dyads for each rating.

Although we received information on family relationship characteristics and confidence for all cases, guardians often reported only a subset of this information to the

court. Because we were using these ratings to predict judicial decision-making, we needed to identify which information was provided to the judges in each case. This was accomplished by using a binary variable that indicated whether the item was reported as a weighting variable. In other words, rating scores were multiplied by this weighting variable before they were included in the analyses. We also examined whether guardians' decision to report information on a rating was related to the value of the rating or to their confidence in making the rating.

In order to determine which variables were predictive of disposition, multiple logistic regression models were calculated using the method of maximum likelihood. This statistical procedure is appropriate when a variety of discrete and continuous variables are being used to predict a dichotomous independent variable. The test statistic for this comparison is called the goodness-of-fit chi-square (G^2). This statistic compares the outcome predicted from a regression equation with the observed outcome to determine whether the model fits the data. In contrast to more conventional analyses, in this procedure small values of the statistic (or large p-values) indicate significant findings. This statistic requires no assumptions of multivariate normality.

In addition to testing the significance of a logistic regression model, it is also possible to test the

significance of individual independent variables. This test is also based on a chi-square, however interpretation of this statistic is more conventional. Large chi-square values (or small p-values) indicate that a variable significantly improves prediction after all other variables have been included in the model. Furthermore, the direction of influence each significant variable exerts on the outcome variable can be interpreted by the sign of the parameter estimate. Positive estimate values indicate an increased likelihood while negative values indicate a decreased likelihood.

Due to the large number of independent variables relative to the sample size, it was necessary to calculate a substantial number of regression equations with a subset of the independent variables included in each. The procedure used to select variables for each regression is described below in the Variable Selection section. After all variables were included in a model, a backwards stepwise procedure with replacements was used in order to exclude variables that failed to improve prediction. The variables remaining in these models were then combined into larger models. Subsequent to this, variables that did not improve prediction were again eliminated from the model in a backwards stepwise fashion.

One of the consequences of running a large number of models is an increase in the experimentwise error rate. In

order to control for this problem, a conservative criteria was set for determining whether a variable improved prediction. Variables were considered significant predictors only when the overall model goodness-of-fit test was nonsignificant and the variable chi-square test was significant.

Before discussing variable selection, one problem in the analyses must be discussed. Within all of the regression equations, many of the independent variables were highly correlated. This problem of multicollinearity complicated both the analyses and the subsequent interpretation. Although multicollinearity does not greatly affect the model goodness-of-fit tests, it does bias variable chi-squares tests towards nonsignificance. Consequently, caution was used when excluding nonsignificant independent variables from a regression model. Variables that appeared to improve the predictability of the overall model but did not have significant chi-square values were retained in the model until the effect of other potentially related variables could be evaluated.

Variable Selection

The independent variables were grouped into the following categories: psychological, sociological, and legal. Psychological variables primarily included items describing family relationships that have been identified in the literature as related in particular to post-divorce

child adjustment or in general to psychological well-being. They include items addressing family conflict, social support, and child(ren)'s emotional and physical needs. Additionally, information on whether psychological evaluations or treatment were recommended for any family member and the parent's response to the guardian were included in this group.

Variables were labeled sociological if they described the demographic characteristics of the families. These included race, occupation, income, education, which parent had remarried, whether extended family members lived with the parents, and the number of children in the family.

The final category, termed legal variables, included items identified either in the Florida Statutes or in legal journals as relevant to custody determinations. The following information was included in this group: where the parents planned to live, the child's wishes, who held custody following parental separation, the emotional bond between the parents and children, each parent's capacity to care for the child(ren), whether any child is of "tender years", reports of abuse or kidnappings, and the guardian's recommendations.

RESULTS

Case Characteristics

One of the aims of this project was to describe the cases referred to the GAL custody program. A description of these cases should provide some reference points for interpreting the predictability of judicial decision-making regarding these families. Table 2 presents information on the parent/step-parent pairs. Almost all parents are represented by counsel and plan to live in the state. Consequently, these issues do not differentiate between parental dyads, and thus this information can have little impact on decision-making. In contrast to the above items, information on who held custody after separation, who provided for the children's physical and emotional needs prior to separation, and to a lesser degree who has more time available to care for the children all point towards one parent as a preferred caretaker, the mother.

Florida Statutes list likelihood of allowing the child frequent and continuing contact with the nonresidential parent as one of the guidelines for custody determinations. Literature on post divorce child adjustment also support the importance of continued contact with the nonresidential parent (Hess & Camara, 1979; Isaacs, 1988; Shybunko, 1989; Wallerstein & Kelly, 1980). In light of these points, the

TABLE 2
 Characteristics of Parent/Step-Parent Pairs*

	Mother/ <u>Step-Father</u>	Father/ <u>Step-Mother</u>
Represented by Counsel	92	93
Plans to Live in Florida	92	95
Provided for the Physical Needs of the Children Prior to Separation	70	27
Provided for the Emotional Needs of the Children Prior to Separation	70	32
Held Custody After Separation	73	15
Has More Time for Caretaking than the Other Parental Pair	54	17
Can Be Labeled Unfit	28	18
Physical Problems Limit Caretaking	12	3
Secretly Taken the Child	18	13
More Willing to Allow the Other Parental Pair Visitation	33	35
Recently Moved	37	25

* Table values represent percentage of pairs falling into each category.

item addressing willingness to allow parental visitation and that which refers to a parent secretly taking a child from a custodial parent are of interest. In our sample, concerns about willingness to allow visitation arose in almost 70% of the cases while kidnapping occurred in 31% of the cases. Consequently, willingness to allow contact between the children and the nonresidential caretaker appears to be an issue of concern in many of these contested custody cases.

The information in the table also suggests that in a few cases one or both parents may have limited caretaking abilities. The difficulty caring for the children may arise from some physical limitation due to illness, injury, or handicap. This occurred in very few cases and only one parent in a family was ever handicapped. Additionally, a parent may be unfit as a caretaker due to a history of child abuse/neglect or spousal abuse. Although at least one parent was determined to be unfit in 40% of the cases, both parents were unfit in only four cases (6%). Consequently, these issues clearly discriminated between parental pairs.

Due to the impact abuse and neglect have on children, further description of our sample with regard to these issues is warranted. Figure 1 presents the relative frequencies of the different types of abuse allegations and substantiated reports. For all types of abuse and neglect, allegations arose much more frequently than substantiated reports, especially for sexual and emotional abuse. In

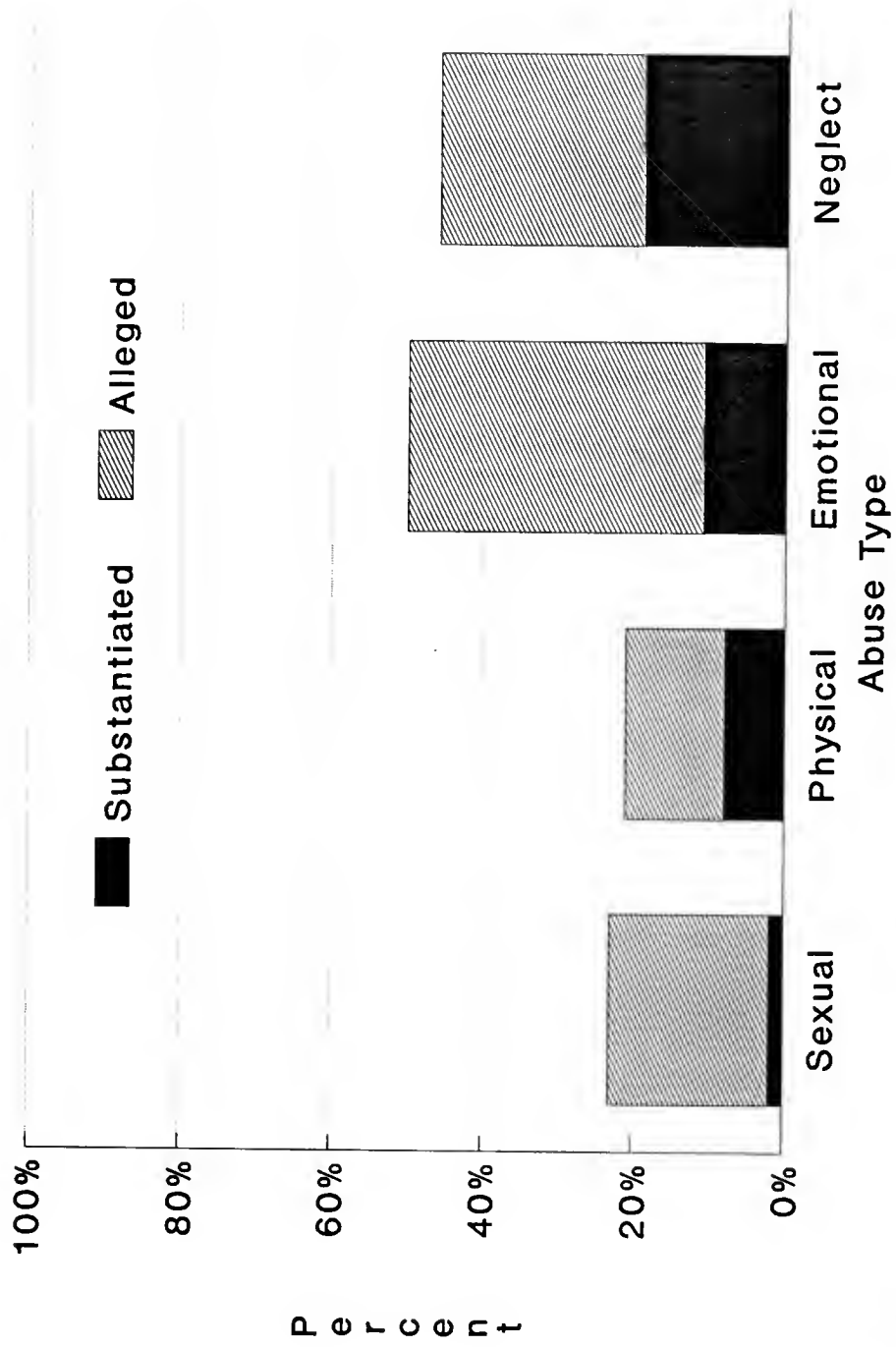


Figure 1: Occurrence of Child Abuse and Neglect

fact, 83% of the cases included at least one allegation of abuse or neglect. Surprisingly, in 47% of the cases, these allegations involved only one parental pair, and thus could be used to discriminate custodial options for some cases. With regard to the type of problem, more cases involved allegations or substantiated reports of emotional abuse than any other abuse, while physical and sexual abuse were alleged or substantiated least often. This pattern was not replicated when substantiated reports are considered alone. Neglect was substantiated in the largest number of cases, while sexual abuse occurred least frequently. In addition to reports of current abuse/neglect, substantiated reports of previous child abuse/neglect were present in 13% of the cases. An additional 10% of the cases involved allegations of previous abuse/neglect.

Reports of spousal physical and emotional abuse were also prevalent in our sample. Spousal physical abuse was alleged in 29% of the cases, while spousal emotional abuse was alleged in 35% of the cases. Substantiated physical and emotional abuse occurred in 11% and 16% of the cases respectively.

Reports of alcohol and drug abuse have also been given attention in literature describing judicial decision-making and post divorce child adjustment. In our sample, allegations of substance abuse occurred in 60% of the cases, while substantiated reports were made in an additional 25%

of the cases. Of the cases involving allegations or substantiated reports of substance abuse, the reports were made against one parent in 47% of them. Alcohol abuse was listed as a problem in 52% of the cases, while drug abuse was reported in 43%. Both were alleged in 37% of the cases. Reports of alcohol and drug abuse were made approximately equally against mothers and fathers. These figures indicate that substance abuse reports are relatively common in these contested cases.

The number of substantiated reports of abuse/neglect and the number of parents involved with alcohol or drug abuse indicate the incidence and degree of psychological problems within these families. In fact, guardians recommended treatment for a family member in 60% of the cases. Additionally, guardians recommended that someone undergo a mental health evaluation in 49% of the cases. Evaluations, however, were only completed in 28% of the cases. The difference in these frequencies are due in part to the difficulty of getting a parent to consent to the evaluation for either themselves or their children.

Frequency of Custody Awards and Recommendations

Before describing the result of the regressions, we will discuss GAL recommendations for custody awards as well as the actual custody determinations awarded by the court. This information is reported in Table 3. Consistent with a presumption for shared custody, this arrangement was awarded

TABLE 3

Custody Awards and Recommendations

<u>Final Determinations</u>	<u>Percent</u>
Shared Custody with Mother as Primary Custodian	43
Shared Custody with Father as Primary Custodian	33
Shared Custody with Split Primary Custody	5
Maternal Sole Custody	8
Paternal Sole Custody	7
Other Custody Arrangement	4
<u>Guardian Ad Litem Recommendations</u>	
Mother as Primary Custodian	51
Father as Primary Custodian	39
Alternative Arrangement Recommended	10
<u>Children's Wishes</u>	
Preference for the Mother as Primary Custodian	39
Preference for the Father as Primary Custodian	21
No Preference was Stated	40

much more frequently than sole custody or any other arrangement. Additionally, primary residential custody was almost universally awarded to one parent under shared custody. An interesting item evident in the table is the number of cases in which physical residence was awarded to the father. These results suggest that, at least in our sample, there is little apparent tendency for either guardians to recommend physical residence to mothers or for the court to award custody to mothers over fathers. In fact, a preference for the mother to be the primary caretaker was evident only in the children's wishes.

Prediction of Custody Awards

The primary aim of this study was to describe the factors that are most influential in child custody determinations. A series of logistic regression equations were calculated in order to address this issue. In particular, two aspects of custody determinations were addressed: whether shared or sole custody was awarded and which parent would serve as primary residential custodian.

Awards of Shared Versus Sole Custody

Prior to evaluating the importance of legal, sociological, and psychological issues, we assessed whether custody awards might be influenced by factors unrelated to the information provided to the court. For instance, since data was collected on both initial disposition and disposition modification cases, we were concerned that

custody awards might differ between these groups of cases. We were also interested in testing whether the location of a judicial circuit affected custody awards. Thirdly, in a subset of the case, guardians did not have the opportunity to interview all family members; the influence of this procedural variable was also of concern. When these variables were included in a prediction equation, none of them surfaced as significantly related to an award of shared versus sole custody. Consequently, custody appears to be awarded similarly across the state, among disposition and modification cases, and when guardians did not interview all family members.

The legal variables were then entered into a series of logistic regression equations. A few variables emerged as significantly related to the determination of shared versus sole custody within several of these regressions. As presented in Table 4, both the model goodness-of-fit chi-square and the variable chi-square were significant in each case. In this table, positive parameter values indicate that higher values of that variable resulted in a increased likelihood of sole custody awards.

Relationships between fathers and their children, specifically the degree of warm feelings held by the fathers for the children, also affected custody awards. However, it is difficulty to interpret the effect this variable has on custody awards. The parameter estimate for this variable is

TABLE 4

Logistic Regressions Using Legal Variables
To Predict Shared Versus Sole Custody

<u>G²</u>	<u>Df</u>	<u>Predictor Variables</u>	<u>Parameter Estimate</u>	<u>Df</u>	<u>Chi-Square</u>
Initial Legal Models					
11.66 ^a	9	Physical Problems Limit Mothers Caretaking	.85	1	3.76 ^b
45.36 ^a	52	GAL Rating of Father's Warm Feelings for the Children	-.03	1	3.75 ^b
		GAL's Confidence in Rating Warm Feelings	.03	1	3.85 ^b
23.66 ^a	21	Mother Determined Unfit	.97	1	5.74 ^b
		Presence of a Young Child	2.34	1	9.87 ^c
		Interaction Between Child's Age and Child's Wish to Live with their Mother	-2.49	1	34.70 ^d
13.95 ^a	14	Substantiated Physical Abuse by the Father	1.32	1	4.19 ^b
Combined Legal Model					
33.28 ^a	51	Physical Problems Limit Mothers Caretaking	1.43	1	4.37 ^b
		GAL Rating of Father's Warm Feelings for the Children	-.05	1	4.78 ^b
		GAL's Confidence in Rating Warm Feelings	.05	1	4.65 ^b
		Mother Determined Unfit	1.14	1	5.81 ^b

^a $p > .05$
^b $p < .05$
^c $p < .01$
^d $p < .001$

negative, suggesting that shared custody was more likely to be awarded when this variable was rated high. However, the parameter estimate for GAL confidence in this rating is positive, suggesting that confidence mediates the relationship between ratings of father-child relationships and an award of shared versus sole custody. Consequently, in cases where confidence in this rating is low, high ratings of paternal warm feelings increase the likelihood of an award of shared custody, while low ratings of paternal warm feelings have little effect on custody determinations. However, in cases where confidence is low, high ratings of paternal warm feelings have little effect on custody determinations, while low ratings of paternal warm feelings increase the likelihood of an award of sole custody.

Children's wishes and their age both influenced the likelihood of sole versus shared custody awards. Taken together, the significant effect of age and the interaction between children's wishes and age suggest a nonlinear relationship between these variables and custody awards. When children were young and wished to live with their mothers, shared custody was the most likely award. In fact, primary residence was usually awarded to the mother in these cases. However, when children were young and they did not wish to live with their mothers, the likelihood of sole custody being awarded to the father was increased. The wishes of older children had little impact on awards of sole

versus shared custody; as there were only four families without young children, this effect could not be adequately tested within this sample.

Sole custody was more likely to be awarded when mothers were either physically handicapped or perpetrators of any form of child abuse or neglect. Further examination of the data indicated that in these cases, judges awarded sole custody to the father. Similarly, cases involving substantiated reports of physical child abuse perpetrated by the father also resulted in increased awards of sole custody. In these cases, sole custody was typically awarded to the mother. It is striking in this context, however, that substantiated reports of child sexual abuse, child emotional abuse, neglect, or spousal abuse do not significantly increase the likelihood of judges awarding sole custody when the father was the perpetrator.

Legal variables identified as significantly predictive of outcome in the aforementioned regressions were then combined into another logistic regression model. This model was significant (see Table 4), and the following variables were shown to be related to the custody arrangement awarded: presence of maternal physical problems limiting caretaking ability; the guardian's rating of the father's warm feelings for the child(ren); the guardian's confidence in that rating; and a determination that the mother was unfit as a caretaker. The presence of a young child in the family,

substantiated reports of paternal physical abuse, and the interaction between children's wishes and their age were dropped from the combined model. This does not indicate that these variables were unrelated to outcome, but that they did not add significantly to the prediction of custody awards over the other variables.

The eleven sociological variables were entered into two regression equations. Although both of the two models were significant, G^2 (24, N=57) = 30.03, $p \geq .05$ and G^2 (23, N=57) = 21.47, $p \geq .05$, only mothers' occupational level was shown to be predictive of outcome. For the purposes of this study, occupation was classified into four categories: unemployed, unskilled labor, skilled labor, and professional. Within our sample, sole custody was more likely to be awarded when mothers had skilled jobs than otherwise (parameter value=1.30), χ^2 (1, N=57) = 3.95, $p \leq .05$. Upon further examination of the data, the awards of sole custody in these cases usually went to the mothers. Given the small number of cases (N=4) in which mothers held professional jobs, our sample may not have adequately tested the relationship between custody determinations and this occupational level.

Psychological variables, entered into two regression models, were highly predictive of whether shared or sole custody was awarded. Model goodness-of-fit chi-squares and

at least one variable chi-square were significant (see Table 5).

As can be seen in Table 5, sole custody is more likely to be awarded in those cases in which guardians rate mothers as being hostile towards them. Fathers' relationships with people outside the immediate family are also important predictors of shared versus sole custody. The significant interaction and main effects for ratings of fathers' social support and guardians' confidence in those ratings together indicate a nonlinear relationship between these variables and shared versus sole custody awards. A judge is more likely to award sole custody when guardians are confident that fathers are satisfied with their social supports than when the guardians are uncertain of their ratings on this issue. Conversely, shared custody is a more likely outcome when guardians rate fathers as being only moderately satisfied with their social supports as well as when the guardians are less confident of their ratings. This relationship suggests that in the absence of clear information on fathers' social support, judges favor an award of shared custody.

The above paragraphs describe how each of the three groups of variables, sociological, psychological, and legal, individually predict the award of shared versus sole custody. After the variables most predictive of custody awards within these groups were specified, a combined model

TABLE 5

Logistic Regressions Using Psychological Variables
To Predict Shared Versus Sole Custody

<u>G²</u>	<u>Df</u>	<u>Predictor Variables</u>	<u>Parameter Estimate</u>	<u>Df</u>	<u>Chi-Square</u>
Initial Psychological Models					
30.76 ^a	50	Hostility of Mothers Towards GAL	.04	1	8.47 ^c
		GAL Rating of Father's Satisfaction with Social Support	-.06	1	3.05 ^a
		GAL's Confidence in Rating Social Support	-.04	1	4.21 ^b
		Interaction Between Father's Social Support Rating and GAL Confidence	.001	1	5.79 ^b
3.90 ^a	21	Psychological Evaluation was Recommended for Some Family Member	1.21	1	4.82 ^a
Combined Psychological Model					
30.76 ^a	50	Hostility of Mothers Towards GAL	.04	1	8.47 ^c
		GAL Rating of Father's Satisfaction with Social Support	-.06	1	3.05 ^a
		GAL's Confidence in Rating Social Support	-.04	1	4.21 ^b
		Interaction Between Father's Social Support Rating and GAL Confidence	.001	1	5.79 ^b

^a $p > .05$
^b $p \leq .05$
^c $p \leq .01$

was constructed to identify those variables most predictive of custody awards. Nonsignificant variables were excluded from the equation, resulting in the model presented in Table 6.

In particular, three variables out of the nine entered into this final model were dropped. These variables included mothers' occupational level, presence of maternal physical problems that limited caretaking ability, and determinations that mothers were unfit as caretakers. These variable were dropped because they failed to increase the predictability of the outcome over the remaining variables. Thus the remaining variables are the strongest predictors of judicial determinations of sole versus shared custody.

As Table 6 shows, mothers' and fathers' responses to and involvement with people outside of the immediate family are strong predictors of custody determinations. In particular, judges are more likely to award sole custody given either the presence of maternal hostility towards guardians or confident GAL ratings of paternal satisfaction with available social supports.

Relationships within the family are also predictive of custody awards. As discussed earlier, the relationship between ratings of paternal warm feelings for their children and custody awards is contingent on the guardians' confidence in their ratings of this variable. The reader

TABLE 6

Logistic Regressions Using Combined Psychological,
Sociological, and Legal Variables
To Predict Shared Versus Sole Custody

<u>G²</u>	<u>Df</u>	<u>Predictor Variables</u>	<u>Parameter Estimate</u>	<u>Df</u>	<u>Chi-Square</u>
24.10 ^a	48	Hostility of Mothers Towards GAL	.06	1	7.39 ^c
		GAL Rating of Father's Satisfaction with Social Support	-.07	1	2.34 ^a
		GAL's Confidence in Rating Social Support	-.03	1	3.35 ^a
		Interaction Between Father's Social Support Rating and GAL Confidence	.001	1	4.42 ^b
		GAL Rating of Father's Warm Feelings for the Children	-.05	1	4.28 ^b
		GAL's Confidence in Rating Warm Feelings	.05	1	4.19 ^b

^a $p > .05$

^b $p \leq .05$

^c $p \leq .01$

should note that as with the issue of paternal social support, judges are more likely to award shared custody when there is an absence of clear information on these issues.

Awards of Maternal Versus Paternal Primary Physical Residence

As with prediction of shared versus sole custody, we assessed whether the purpose of the case (initial disposition or disposition modification), a change in GAL procedures (i.e., a family member was not interviewed), or the location of the circuit influenced the award of primary physical residence (PPR). These variables were entered into a regression model before psychological, legal, and sociological data were considered. Both the model chi-square and the variable chi-squares indicated no relationship between these variables and primary physical residence awards. Consequently, PPR appears to be awarded similarly across the state as well as among disposition and modification cases. Additionally, PPR is not influenced by the unavailability of a subset of family members for interview by guardians.

Next, legal variables were entered into a series of regression equations. Variables emerging as significant predictors of PPR and with significant goodness-of-fit model chi-squares are listed in Table 7. In this table, positive parameter values indicate an increased likelihood of awards for maternal primary residence.

TABLE 7

Logistic Regressions Using Legal Variables
To Predict Primary Physical Residence Award

<u>G²</u>	<u>Df</u>	<u>Predictor Variables</u>	<u>Parameter Estimate</u>	<u>Df</u>	<u>Chi- Square</u>
Initial Legal Models					
40.86 ^a	30	Mother has More Time to Care for Children	1.16	1	13.12 ^d
64.58 ^a	52	GAL Rating of Father's Daily Involvement with the Children	-.03	1	6.58 ^c
8.90 ^a	11	Mother Held Residence Following Parental Separation	.79	1	5.42 ^b
60.91 ^a	49	Confidence in Rating Parental Warm Feelings for the Children	-.13	1	4.37 ^b
		Interaction Between Ratings of Mother's Warm Feelings and Confidence	.004	1	3.78 ^b
		Interaction Between Ratings of Father's Warm Feelings, Mother's Warm Feelings, and Confidence	.00002	1	3.84 ^b
25.79 ^a	22	Child Wishes to Live with the Mother	1.66	1	12.75 ^d
		Mother Determined Unfit	-.97	1	4.93 ^b
26.21	19	Substantiated Report of Maternal Neglect	-5.40	1	12.74 ^d

TABLE 7--continued

<u>G²</u>	<u>Df</u>	<u>Predictor Variables</u>	<u>Parameter Estimate</u>	<u>Df</u>	<u>Chi-Square</u>
Combined Legal Model					
35.55 ^a	49	Child Wishes to Live with the Mother	1.38	1	6.94 ^c
		Mother Determined Unfit	-1.34	1	7.30 ^c
		Mother Held Residence Following Parental Separation	1.51	1	4.77 ^b
		GAL Rating of Father' Daily Involvement with the Children	-.03	1	4.81 ^b

^a $p > .05$
^b $p \leq .05$
^c $p \leq .01$
^d $p \leq .001$

Maternal PPR was more likely in cases where the mother had more time to care for the children than the father and when the mother held residential custody of the child(ren) following parental separation. Maternal PPR was also more likely when children expressed a desire to live with their mother.

Paternal PPR was more likely to be awarded in cases where fathers had been involved in providing for the child's daily living needs and when substantiated reports of maternal child abuse/neglect or spouse abuse were present. Within the set of variables regarding abuse, reports of maternal neglect were most predictive of paternal PPR. In fact, PPR was never awarded to mothers in cases where reports of neglect had been substantiated.

The significant interaction effects which emerged between ratings of parental warm feelings for the children and guardians' confidence in these ratings describe an interesting relationship between these variables and PPR awards. When GAL confidence is high, ratings of maternal warm feelings strongly influence the likelihood of PPR awards. High ratings of maternal warm feelings predict an award of maternal PPR, while low ratings on this variable predict paternal PPR. However, when confidence is low, ratings of maternal warm feelings have little influence on PPR awards regardless of the value of this variable. In any

case, ratings of paternal warm feelings have only a moderate impact on the likelihood of PPR awards.

The legal variables identified as significant descriptors of judicial decision-making in one of the several regression models were then entered into a combined model. The purpose of this model was to identify the strongest descriptors among all the legal variables. This combined model (see Table 7) was significant, and the following variables were shown to be related to the award of PPR: children's wishes to live with their mother, the determination that a mother was unfit, the child's residing with the mother following parental separation, and GAL rating of the father's involvement in providing for the child's daily living needs. Variables including whether the mother would have more time available for the child and those involving ratings of parental warm feelings were dropped because they did not add significantly to the predictability of the model.

Sociological variables were entered into the next series of regression equations. Out of the eleven variables in this group, only one emerged as significantly predictive of PPR awards. Paternal PPR was more likely to be awarded when there was only one child in the family than otherwise, $G^2 (11, N=55) = 9.59, p > .05$ and $X^2 (1, N=55) = 5.07, p \leq .05$.

Psychological variables were entered next. Of the four regression equations calculated, only one was significant,

$G^2 (4, N=55) = 5.80, p>.05$. Within this model, however, no variable obtained significance. Consequently, these variables, including family conflict, parents' relationships with nonfamily members, and the presence of a recommendation for either a mental health evaluation or psychotherapy do not appear to be very influential in the decision-making process.

The previous paragraphs in this section describe how variables within each of the three groups influence decision-making regarding awards of PPR. With the exception of the item indicating the number of children in the family, all variables identified as influential fell within the legal domain. All of these variables were combined in another regression in order to determine which were most influential. The goodness-of-fit chi-square for this model was significant, $G^2 (47, N=55) = 30.83, p>.05$. Additionally, the individual chi-squares for all of the legal variables were also significant. The number of children, however, did not add anything to the prediction equation. Consequently, the model combining predictors from all three groups of variables was identical to the combined legal model presented in Table 7. Thus, four legal items, child(ren)'s wishes for a residential parent, maternal fitness, the child's residing with the mother following parental separation, and the degree to which fathers were involved in providing for the daily living needs of the

children, were the most influential in determinations of parental PPR.

An additional area of interest was the relative impact of GAL recommendations regarding PPR awards in comparison to the other predictors discussed. This variable was not entered into the model earlier because it is based on the same information described above and would be largely collinear with the other variables. Consequently, a model was constructed that included this variable and the four legal variables found to best predict PPR awards. The resulting model was significant, $G^2 (43, N=55) = 22.63$, $p > .05$, but no variables other than GAL recommendation, $\chi^2 (1, N=55) = 5.73$, $p \leq .05$, were significant. Further examination of the data showed that judicial determinations were consistent with GAL recommendations in 86% of the cases.

Guardians' Decisions Regarding When to Report Ratings

With regard to custody cases, the importance of guardians' opinions about family members is evident in the previous sections. Both their characterizations of family relationships and their recommendations regarding custody awards were shown to be influential. Consequently, guardians' decisions regarding when to report information significantly affected the decision-making process. One reason for reporting a given characteristic could be that a family exhibited it to an unusually high or low degree. A

second possible reason is that guardians' felt confident about their evaluation of the family with regard to a given issue.

The two hypotheses listed above were tested by using the guardians' ratings of a family characteristic, their confidence in making those ratings, and the interaction between these to predict whether the issue were reported to the court. Some issues required separate ratings for each parent. For these issues, ratings on each parent separately and on the interaction between them were included in the analyses. As with the analyses on custody awards, the outcome variable here was binary. Consequently, a logistic regression procedure was used. Although some G^2 values were significant, no variable chi-squares were. Thus, in every case, the results indicated no significant relationship between either variable and the decision to report the information.

DISCUSSION

The results of this study provide descriptive information about the contested custody cases which are served by the GAL program in Florida. These cases involve predominantly Caucasian families with young children. The parents tend to be in their 30s, have a high school education, and have a joint family income of between \$25,000 and \$35,000 a year. As mothers were frequently unemployed, fathers tended to be the principle wage earners. Almost all of the cases were referred from urban settings. Additionally, the vast majority of parents were represented by counsel in these cases.

These families have experienced considerable stress. In addition their involvement with the court, many parents have recently lost their jobs and the custodial parent is often single. In a few of these cases, the conflict between the parents resulted in the kidnapping of the child by one of the parents. It is interesting to note, however, that very few parents had either moved out of the state or had plans to do so.

Additionally, many of these families exhibited signs of more serious psychological problems. Substantiated reports of abuse by at least one of the parents were present in 40%

of the cases, and allegations of abuse had been made in 83%. The extent to which these allegations reflect actual beliefs that abuse has occurred versus an attempt by the parents to gain leverage in the custody dispute is undetermined. Reports of alcohol and drug abuse were also common in these families. Furthermore, guardians were sufficiently concerned about the psychological functioning of these families to recommend a mental health evaluation in 49% of the cases and treatment in 60% of them.

It appears, therefore, that divorce is probably only one part of a larger picture of personal and familial problems experienced by these individuals. It is clear from this description that the judges seldom have an unequivocally safe and supportive placement available for the children.

Before discussing specific case variables, it is important to note that, in general, judges favored shared custody over sole custody. The degree to which this was the case suggests that judges approached cases with the presumption that they would award shared custody. Such a presumption is consistent with the legal statutes (Joint Legislative Management Committee, 1985). An interesting finding in this regard, was that the strength of the information presented weighed heavily in the decision-making. For example, ratings indicating that a father had warm feelings for his children predicted sole custody awards

only when the guardian was confident in making this rating. In the absence of confidence, this rating had only a marginal impact on custody awards. Taken in conjunction with the data indicating that judges ruled in accordance with GAL recommendations in 86% of the cases, this suggests that judges relied heavily on the judgement of the guardians.

In determinations of primary physical residence, judges did not demonstrate a bias toward either parent. This is consistent with some recent literature on judicial decision-making suggesting a general decrease in the degree to which judges favor maternal PPR even when there are young children in the home (Felner et al., 1985; Sorensen & Goldman, 1989; Racusin et al., 1989). Thus, the tender years presumption no longer appears to hold in Florida. Although awards of maternal PPR did occur somewhat more often, this appeared to reflect characteristics of the case relevant to the legal statutes. In particular, awards of maternal PPR were more likely to occur in cases where mothers held custody following parental separation, and paternal PPR was more likely to occur in cases where the father has been more involved in child care prior to marital dissolution. Additionally, the slightly higher frequency of maternal PPR awards is consistent with the greater caretaking role of the mother in most of the families prior to separation. In

these cases, an award of maternal PPR maintained continuity in the children's caretaking environment.

According to Goldstein et al. (1973), awarding PPR to the mothers here supports the best interests of the children by placing them with the parent to whom they are most bonded. Literature on post divorce child adjustment also suggests that consistency in a child's living environment is important. In his review of recent literature, Felner (1987) noted that consistency in the child's living environment predicted adjustment. Consequently, maternal PPR awards are consistent with the goal of protecting the interests of children and do not indicate a general preference for the mother as caretaker.

Issues relevant to parenting capacity were also influential in the decision-making process. Substantiated reports of maternal child abuse/neglect or spouse abuse generally resulted in an award of sole paternal custody. Additionally, sole paternal custody was awarded in cases where a mother had physical problems that limited her ability to care for her children. Similarly, in cases that involved substantiated reports of paternal physical abuse against the child, sole maternal custody was often awarded. Consistent with our results, reports of abuse and neglect have influenced custody awards for many years. This finding dates back to the initiation of the best interests of the child doctrine (Derdeyn, 1976), and has been supported

consistently in the literature examining judicial decision-making (e.g., Folberg, 1984; Hoorwitz & Burchardt, 1984; Pearson & Ring, 1981) in spite of the changes that have occurred in the legal presumptions and statutes.

However, although some abuse reports resulted in sole custody awards to the nonabusing parent, many did not. With regard to fathers, only child physical abuse appeared to affect judicial custody awards. Child sexual abuse, emotional abuse, neglect and spousal abuse did not appear to influence case awards significantly. This occurred even when abuse reports were substantiated. This is in contrast to the situation for mothers, wherein all forms of substantiated abuse impacted judicial decision-making, although neglect was most influential. It is difficult to understand the finding that substantiated abuse has divergent functional outcomes contingent upon which parent perpetrated the abuse. The judges' decision-making would appear to suggest that abuse, other than physical, renders mothers but not fathers unfit as parents.

It is noteworthy that in comparison to substantiated abuse, allegations of abuse did not emerge as predictive of custody awards. One possible explanation for these findings is that judges may consider abuse allegations to be simply a product of the divorce process and not an accurate gauge of parental competence. Secondly, given the frequency of allegations in this sample, it is possible that they no

longer communicate anything about a case. However, it is important to note that the lack of a significant relationship between abuse reports and custody awards does not indicate that this information was never utilized by judges, only that it was not done so consistently.

Another issue considered by judges in contested custody cases is the parent-child relationship. When fathers are rated as having strong warm feelings for their children, shared custody is more likely. Conversely, sole custody is more likely when fathers are not rated as concerned about their children. Although ratings of this variable have little impact on the determination of parental PPR, ratings of maternal warm feelings lead to maternal PPR when high and paternal PPR when low. Consequently, judges make awards that facilitate involvement with the children for any parent known to have affection for them. Modifying custody awards based on the parent-child relationships is consistent with child adjustment literature, as warm parent-child relationships have consistently predicted increased social adjustment (Hess & Camara, 1979; Santrock & Warshak, 1979; Shybunko, 1989).

A relationship between parental affection for children and custody awards has been demonstrated in past research (Felner et al., 1985; Settle & Lowery, 1982; Sorensen & Goldman, 1989) as well as in this study. However, this study found that judges considered this issue differently

depending on the parent. Fathers demonstrating a lack of warm feelings were removed from a position of responsibility over the children; sole maternal custody was awarded. Mothers demonstrating a lack of warm feelings were denied PPR but continued to be involved in child care through shared custody.

Parental relationships with people outside of their immediate family was also influential. High ratings of fathers' satisfaction with social supports and maternal hostility towards a guardian both predict an award of sole custody. One possible reason for this finding is that maternal expressions of hostility may lead judges to conclude that the parents would not be able to work together in a shared custody situation. The rationale behind awarding sole custody in cases of high paternal social support is unclear, especially in light of the fact that this issue is not significantly related to an award of PPR. This issue has been given little attention in previous literature on judicial decision-making. It is possible that parental social support is related to other case variables that do predict PPR awards. Unfortunately, the size of our sample did not permit the type of exploratory analyses that might uncover this kind of relationship.

Children's wishes also predicted custody awards. Primarily they predicted PPR awards, but for young children they also predicted sole versus shared custody. Cases

involving young children who did not want to live with their mothers generally resulted in awards of sole paternal custody. Maternal shared custody was awarded when children wanted to live with their mothers. This result is consistent with Florida Statutes which list children's wishes as one of the guidelines for determining custody. The reason for the sole versus shared custody awards in these cases is unclear. However, since more children wished to live with their mothers than fathers, it is possible that a desire to live with one's father often arose out of circumstances that would warrant restriction of the mother's involvement in child care. Again, our sample size restricted us from testing this hypothesis.

Another interesting finding was that cases in which a guardian recommended that a family member receive a psychological evaluation resulted in awards of sole custody more often than when this was not the case. Previous research has also found that judges consider parental mental health in these cases (Lowery, 1981; Sorensen & Goldman, 1989). It appears that in the context of custody cases, recommendations for psychological evaluations augur problems sufficient to warrant restricting a parent from child care responsibility. However, as with earlier research (Ash & Guyer, 1984), this variable did not appear to be as important to judges as other issues. When this variable was included in a model with other variables found to influence

custody awards, it failed to add to the model. Research on child adjustment has identified parental mental health as strongly related to child adjustment. Specifically, mental health problems have been related to child behavior problems even at two-year follow-ups (Kline et al., 1989; Kurdek, 1988). This finding suggests that children might benefit if parental mental health is more strongly considered by judges.

Only two of the sociological variables were shown to relate to custody awards. Higher maternal occupational status increased the likelihood that judges would award sole custody. It is possible that greater occupational status indicates that a mother is less dependent on paternal resources and thus may make sole custody a more viable option. Discovery of a relationship between occupational/financial status and custody awards is not new (Felner et al., 1985; Lowery, 1982).

The second significant sociological variable, whether there was one or more than one child, was related to PPR awards. Paternal PPR occurred more frequently in cases in which there was only one child. It appears that judges may perceive fathers as less capable of caring for more than one child. The rationale for this decision remains unclear, and it has not been studied previously.

In contrast with previous literature (Felner et al., 1985; Lowery, 1982), our study did not demonstrate a

preference for placing children with parent's of the same sex. Our results may indicate a change in judicial attitude concerning this issue. A reduced emphasis on this issue and our finding that other sociological variables are not strongly considered by judges is consistent with the fact that researchers have found no relationship between these variables and child adjustment for young children (Adams et al., 1984; Hess & Camara, 1979; Kline et al., 1989; Santrock & Warshak, 1979; Shybunko, 1989). Our sample included few older children.

The results described above illuminate the range of issues considered in the determination of custody awards. While several psychological and sociological variables emerged as related to custody awards, the predominant source of influence in these determinations involved legal criteria. In addition to indicating the relative strength of the relationship between legal information and custody awards, these findings also support the conclusion that judges are following the guidelines provided in the legal statutes. First and foremost, the preference for shared custody is consistent with Florida Statutes providing for a presumption of shared custody except in those circumstances where it can be shown to be detrimental to the child's best interests. Additionally, our data indicates that information on children's wishes, the willingness of the parents to allow contact between the child and the other

parent, the affection between the parents and children, the capacity and disposition of the parents to provide for the children's needs, continuity in child care, and the mental and physical health of the parents are all being considered.

Each of these factors have also been identified in previous literature as strongly related to judicial decision-making (Felner et al., 1985, Lowery, 1981; Sorensen & Goldman, 1989). The consistency with which they are identified in the literature adds further weight to the conclusion that legal criteria are being followed by judges. Additionally, the legal criteria appear to be largely stable over time, except for the increasing presumption of shared custody and the decreasing reliance on maternal PPR.

Although judges appear to be following the legal guidelines regarding custody determinations, other information relevant to child development appears to have been neglected. In particular, several variables identified in the psychological literature as being related to post-divorce child adjustment (Felner, 1987) were not considered. An especially significant oversight in judicial decision-making is the inattention to guardians' evaluation of parental conflict. Models including ratings of conflict between the parents as well as that between each parent and the children were nonsignificant. At a minimum, these results indicate that other variables are given considerably more weight than are ratings of conflict in most cases.

Furthermore, the lack of significance of these models suggests that parental conflict may not even be factored into their decision-making. Given that the degree of conflict is the primary predictive variable of later psychological adjustment in children of divorce (Felner, 1987; Kline et al., 1989; Kurdek, 1988; Wallerstein & Kelly, 1980), its omissions from judicial decision-making may well exacerbate the negative consequences of divorce for the children. It must be noted, however, that a nonsignificant finding here may only indicate a disagreement between guardians and judges on the issue of conflict.

Another source of concern for the author, is the lack of consistency in the use of information regarding substantiated reports of abuse and neglect. Given that the state of knowledge within the mental health field allows for confidence in predicting serious and long-term emotional and behavioral problems for abused and neglected children, the inconsistency in the use of this information by the judges is both surprising and unsettling

A third issue of concern involves substantiated reports of substance abuse. As with child abuse/neglect, judges did not consistently use these reports in their decision-making. This occurred in spite of the fact that the prevalence of substance abuse within this population appears to be rather high. Additionally, many cases involve reports of both drug and alcohol abuse. Parental substance abuse also has

serious negative and long-term effects on children. Consequently, the best interests of children may not be adequately protected if these issues are not given strong weight in the decision-making process.

While this study did identify a number of variables important in custody determinations, several methodological limitations were present in our study. First, the measure of family relationships used has not been validated. The specific meaning of the item scores is less clear than would be desirable; we could not describe our sample's general level of conflict, warm feelings, or care of children's emotional and physical needs. However, this limitation did not restrict us from evaluating the relative impact of low versus high ratings on decision-making. Second, although moderate test-retest and inter-rater reliability has been demonstrated for the vast majority of the ratings on the measure, the study used to evaluate these characteristics of the measure involved only a few subjects and did not generate optimal results.

A third limitation concerns the selection of our sample. Although we endeavored to collect data on every case referred to the GAL custody project during the period of study, this did not happen. Some circuits were more cooperative than others and even the most cooperative circuits did not provide us with the desired sampling. The sampling of cases was also not random. Rather, we were

provided with data on cases that involved guardians willing to complete our forms. Consequently, our sample may not represent the population of GAL custody referrals in Florida and caution should be used when generalizing our results to other samples of GAL cases.

Our sample also was not distributed across a wide range of parental ages, income levels, or ethnic groups. It is very likely that judges may weigh information differently when considering cases involving wealthy families, families with much older or much younger parents, or minority families. Thus generalizability of our findings to populations with different demographic characteristics is not advisable.

Another qualification concerning the generalizability of our results arises from the fact that only cases referred to the GAL program in Florida were sampled. Cases not referred to the GAL program may well be very dissimilar to our sample. Furthermore, judges in states with different legal guidelines and political climates may base their decision-making on criteria which is not consistent with that used by the sample of judges in this study. Consequently, our results should not be generalized to other parts of the country.

Finally, our results are based on only a small sample of custody cases. Consequently, some of our findings may be sample specific. However, given that conservative criteria

were used to identify significant effects, this potential difficulty has been minimized.

Future research is needed to assess the generalizability of our findings to other populations. In particular, information on custody cases not referred to the GAL would provide an excellent comparison group for this study. Issues of special interest include the degree of child abuse and neglect, substance abuse, and the frequency of different custody awards within a nonreferred sample. Later studies using a similar population would also be of interest in order to replicate the current findings and gauge changes in judicial decision-making over time.

Research is also needed to further clarify the results presented here. Our results identify a number of factors important in judicial decision-making, but the factors are only described in a very general sense. For example, further research is necessary to refine the understanding of how judges evaluate the degree of parental warm feelings.

Because guardians' judgements are also influential, research examining their decision-making would also be of interest. In particular, further study on the stability of guardians' impressions regarding family relationships would be of interest. This study provides only preliminary information on this topic. Future research aimed at matching guardians' ratings to some objective reference points would also be extremely useful.

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APPENDIX

DEMOGRAPHIC AND LEGAL INFORMATION:

Who is filling out this form?

Guardian Coordinator/Director Other

Date of this hearing? _____ Judge Code: _____

Circuit: _____ County: _____

Check the purpose of this hearing:

Visitation Modification _____

Primary Residence/Custody Modification _____

Other Modification _____

Dissolution and Residence/Custody _____

If the purpose of this hearing is for modification, please report the previous custody arrangement: _____

Who requested that the Guardian become involved?

HRS Judge Parent

Other Relative Attorney Other

Circle any immediate family members who have not been interviewed by the GAL: (Circle all that apply)

Mother Stepmother Father Stepfather

Child Grandparent Other (specify) _____

Report for each parent the state where he/she plans to live:

Mother(& Stepfather) _____ Father(& Stepmother) _____

Has one or more of the parents lost their jobs within the last year?

Yes No

If either parent has moved within the last year, please report who moved and how far he/she moved ?

WHO? _____ HOW FAR?(miles) _____

Please circle the parent(s) who is represented by counsel:

Mother(& Stepfather) Father(& Stepmother)

Please report for all family members the following information:

Role: M=mother, F=father, SM=stepmother, SF=stepfather,
GP=grandparent, C=child, O=other

Sex: M=male, F=female

Race: C=caucasian, H=hispanic, B=black, O=other

<u>ROLE</u>	<u>AGE</u>	<u>SEX</u>	<u>RACE</u>	<u>ROLE</u>	<u>AGE</u>	<u>SEX</u>	<u>RACE</u>
1. _____	_____	_____	_____	2. _____	_____	_____	_____
3. _____	_____	_____	_____	4. _____	_____	_____	_____
5. _____	_____	_____	_____	6. _____	_____	_____	_____

Record the number of years of education completed, gross yearly income, and age of each parent:

	<u>Yearly Income</u>	<u>Years of Education</u>	<u>Age</u>
MOTHER	_____	_____	_____
FATHER	_____	_____	_____
STEPMOTHER	_____	_____	_____
STEPFATHER	_____	_____	_____

Occupation of each parent:

Mother _____ Father _____
Stepmother _____ Stepfather _____

What was the child(ren)'s preference for primary residential custodian?

Mother	Stepmother	Other Relative	None
Father	Stepfather	Foster Care	N/A

For the following questions, please circle all that apply:
M=Mother, SM=Stepmother, F=Father, SF=Stepfather, N=Neither

Who held primary residence of the children just prior to filing the petition for dissolution?	M	SM	F	SF	N

Which parent(s) has taken the child secretly and prevented the other parent from seeing them for some period of time.

Which parent(s) may have difficulty caring for the child due to a physical handicap, serious illness, or injury?	M	SM	F	SF	N

Which parent appears to be more willing to allow the child(ren) to visit the other parent?

Which parent would have more time available to spend with the child(ren) if he/she were awarded physical residence or sole custody?	M	SM	F	SF	N

For the following questions, place a check mark in the box corresponding to any alleged or substantiated problem made for any parent(s):

ABUSE TYPE	ALLEGATIONS						SUBSTANTIATED					
	MOTHER	STEPHER	FATHER	STEPHER	NEITHER		MOTHER	STEPHER	FATHER	STEPHER	NEITHER	
Alcohol												
Drug												
Hitting the Child												
Child Physical												
Child Sexual												
Child Emotional												
Child Neglect												
Spousal Physical												
Previous Reports of Child Abuse/Neglect												

INTERPERSONAL AND FAMILY ISSUES: Please evaluate items 1-8 from your interviews with the family members. Place a mark on the line to indicate your rating of the family. Also, please circle the number of the question if you have included information on that issue in your report to the court.

1. CONFLICT BETWEEN THE TWO PARTIES SEEKING CUSTODY:

|-----|
Very Little Very Much

CONFIDENCE in your rating:

|-----|
None Total

2. For when the family was living together, rate the degree to which the PHYSICAL NEEDS OF THE CHILD(ren) were met:

|-----|
None Total

CONFIDENCE in your rating:

|-----|
None Total

These needs are primarily met by (circle one):

Mother Father Other (specify)_____

3. For when the family was living together, rate the degree to which the EMOTIONAL NEEDS OF THE CHILD(ren) were met.

|-----|
None Total

CONFIDENCE in your rating:

|-----|
None Total

These needs are primarily met by (circle one):

Mother Father Other (specify)_____

For items 4-8, use the following letters that apply to this family to represent your evaluation of the parents on these issues. Place a mark on the line to represent your rating of each parent, labeling each mark with one of the following letters to indicate the parent to which it refers. Please make sure that you make separate ratings on each parent, including your ratings of the CONFIDENCE you have in your rating on each of them. M=mother, SM=stepmother, F=father, SF=stepfather

4. CONFLICT BETWEEN EACH PARENT AND THE CHILD(ren) for whom there is a custody question, with an M, F, SM, and an SF.

|-----|
Very Little Very Much

For each parent, is this conflict mostly with:

	One Child	More Than One Child		One Child	More Than One Child
Father:	_____	_____	Mother:	_____	_____
Stepfather:	_____	_____	Stepmother:	_____	_____

CONFIDENCE in each of your ratings with an M, F, SM, and SF.

|-----|
None Total

5. WARM AND POSITIVE FEELINGS FOR THE CHILDREN for whom there is a custody question, held by each parent with an M, F, SM, and an SF.

|-----|
None Total

CONFIDENCE in each of your ratings with an M, F, SM, and SF.

|-----|
None Total

6. INVOLVEMENT each parent has with the child(ren)'s daily lives (e.g., peer relationships, child's feelings, minor illnesses) with an M, F, SM, and an SF.

|-----|
No Involvement Excessive Involvement

CONFIDENCE in each of your ratings with an M, F, SM, and SF.

|-----|
None Total

7. HOW EACH PARENT RESPONDED TO YOU in general with an M, F, SM, and an SF.

|-----|
 Friendly Hostile/Rejecting

CONFIDENCE in each of your ratings with an M, F, SM, and SF.

|-----|
 None Total

8. SATISFACTION WITH SOCIAL SUPPORT that each parent receives for any problem from relatives, friends, coworkers, and community agencies, with an M, F, SM, and an SF:

|-----|
 Inadequate Excellent

CONFIDENCE in each of your ratings with an M, F, SM, and SF.

|-----|
 None Total

9. Put a check in the space next to the following problems if any child reportedly exhibited one of the following problems:

Child verbally fights excessively with parents	_____
Child physically fights with parents	_____
Child physically fights with siblings	_____
Child verbally or physically fights with non-family members	_____
Child steals from family members or others	_____
Child is withdrawn and does not participate in normal daily activities, such as school work or family activities	_____
Child refuses to do what his parents tell him to do, such as going to school or doing household chores.	_____

CHECK TO MAKE SURE THAT YOU HAVE CIRCLED THE NUMBER OF THE QUESTIONS WHICH CONTAIN INFORMATION YOU REPORTED TO THE COURT

FINAL JUDGEMENT

Check whether the following options were considered as a result of your investigation and which decision was finally made.

	CONSIDERED	DECISION
Shared Parental Responsibility- primary physical residence with Mother (& Stepfather):	_____	_____
Shared Parental Responsibility- primary physical residence with Father (& Stepmother)	_____	_____
Sole custody awarded to the mother:	_____	_____
Sole custody awarded to the father:	_____	_____
Shared Parental Responsibility- Split Physical residence:	_____	_____

Circle the GAL's recommendation for residence of the children:
(Circle all that apply)

Mother	Father	Treatment Facility
Stepmother	Stepfather	Dependency

Indicate who requested a mental health evaluation for any family members:

1= Judge 2=Guardian 3=Attorney for a Parent 4=HRS 5=N/A;

And who completed it;

1=Clinical Psychologist, 2=Psychiatrist, 3=Social Worker, 4=Other Psychologist, 5=Other, 6=Not Completed

	Requested By	Completed By
For the Mother	_____	_____
For the Father	_____	_____
For the Stepmother	_____	_____
For the Stepfather	_____	_____
For the Child(ren)	_____	_____

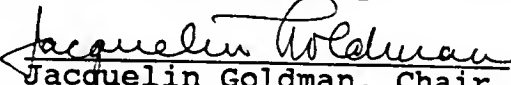
Circle the family member(s) for whom the GAL has recommended therapy:

Mother	Stepmother	Father	Stepfather	Child(ren)
--------	------------	--------	------------	------------

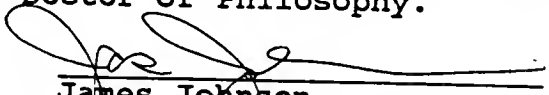
BIOGRAPHICAL SKETCH

Erik D. Sorensen was born on November 19, 1963, in Indianapolis, Indiana, to James and Darlene Sorensen. He graduated from St Louis University High School in May 1981. Erik attended Loyola University in New Orleans, Louisiana, from which he received a Bachelor of Arts in psychology in May 1985. Erik entered the graduate program in clinical psychology at the University of Florida in September 1985. He is a clinical child psychology minor and plans to continue working with adolescents and families.

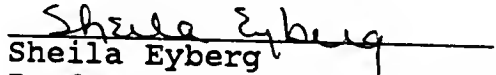
I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.


Jacquelin Goldman, Chair
Professor of Clinical and
Health Psychology


I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.


James Johnson
Professor of Clinical and
Health Psychology

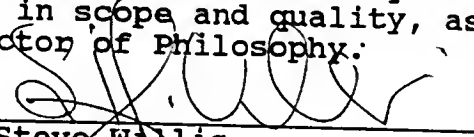
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Sheila Eyberg
Professor of Clinical and
Health Psychology

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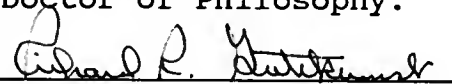

Steve Boggs
Assistant Professor of
Clinical and Health
Psychology

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Doctor of Philosophy.


Steve Willis
Professor of Taxation

This dissertation was submitted to the Graduate Faculty of the College of Health Related Professions and to the Graduate School and was accepted as partial fulfillment of the requirements for the degree of Doctor of Philosophy.

December 1990



Dean, College of Health
Related Professions

Dean, Graduate School

